

1 **DIVISION D—TAX**

2 **SECTION 40001. SHORT TITLE; ETC.**

3 (a) SHORT TITLE.—This division may be cited as the
4 “Energy Tax Policy Act of 2003”.

5 (b) AMENDMENT OF 1986 CODE.—Except as other-
6 wise expressly provided, whenever in this division an
7 amendment or repeal is expressed in terms of an amend-
8 ment to, or repeal of, a section or other provision, the ref-
9 erence shall be considered to be made to a section or other
10 provision of the Internal Revenue Code of 1986.

11 **TITLE I—CONSERVATION**

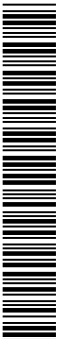
12 **SEC. 41001. CREDIT FOR RESIDENTIAL SOLAR ENERGY**
13 **PROPERTY.**

14 (a) IN GENERAL.—Subpart A of part IV of sub-
15 chapter A of chapter 1 (relating to nonrefundable personal
16 credits) is amended by inserting after section 25B the fol-
17 lowing new section:

18 **“SEC. 25C. RESIDENTIAL SOLAR ENERGY PROPERTY.**

19 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
20 dividual, there shall be allowed as a credit against the tax
21 imposed by this chapter for the taxable year an amount
22 equal to the sum of—

23 “(1) 15 percent of the qualified photovoltaic
24 property expenditures made by the taxpayer during
25 such year, and



1 “(2) 15 percent of the qualified solar water
2 heating property expenditures made by the taxpayer
3 during the taxable year.

4 “(b) LIMITATIONS.—

5 “(1) MAXIMUM CREDIT.—The credit allowed
6 under subsection (a) shall not exceed—

7 “(A) \$2,000 for each system of property
8 described in subsection (c)(1), and

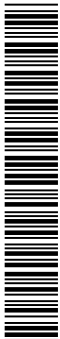
9 “(B) \$2,000 for each system of property
10 described in subsection (c)(2).

11 “(2) SAFETY CERTIFICATIONS.—No credit shall
12 be allowed under this section for an item of property
13 unless—

14 “(A) in the case of solar water heating
15 equipment, such equipment is certified for per-
16 formance and safety by the non-profit Solar
17 Rating Certification Corporation or a com-
18 parable entity endorsed by the government of
19 the State in which such property is installed,
20 and

21 “(B) in the case of a photovoltaic system,
22 such system meets appropriate fire and electric
23 code requirements.

24 “(c) DEFINITIONS.—For purposes of this section—

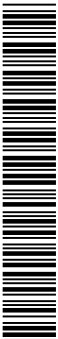


1 “(1) QUALIFIED SOLAR WATER HEATING PROP-
2 ERTY EXPENDITURE.—The term ‘qualified solar
3 water heating property expenditure’ means an ex-
4 penditure for property to heat water for use in a
5 dwelling unit located in the United States and used
6 as a residence if at least half of the energy used by
7 such property for such purpose is derived from the
8 sun.

9 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
10 PENDITURE.—The term ‘qualified photovoltaic prop-
11 erty expenditure’ means an expenditure for property
12 which uses solar energy to generate electricity for
13 use in a dwelling unit.

14 “(3) SOLAR PANELS.—No expenditure relating
15 to a solar panel or other property installed as a roof
16 (or portion thereof) shall fail to be treated as prop-
17 erty described in paragraph (1) or (2) solely because
18 it constitutes a structural component of the struc-
19 ture on which it is installed.

20 “(4) LABOR COSTS.—Expenditures for labor
21 costs properly allocable to the onsite preparation, as-
22 sembly, or original installation of the property de-
23 scribed in paragraph (1) or (2) and for piping or
24 wiring to interconnect such property to the dwelling



1 unit shall be taken into account for purposes of this
2 section.

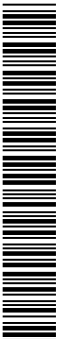
3 “(5) SWIMMING POOLS, ETC., USED AS STOR-
4 AGE MEDIUM.—Expenditures which are properly al-
5 locable to a swimming pool, hot tub, or any other
6 energy storage medium which has a function other
7 than the function of such storage shall not be taken
8 into account for purposes of this section.

9 “(d) SPECIAL RULES.—

10 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
11 CUPANCY.—In the case of any dwelling unit which is
12 jointly occupied and used during any calendar year
13 as a residence by 2 or more individuals the following
14 shall apply:

15 “(A) The amount of the credit allowable
16 under subsection (a) by reason of expenditures
17 made during such calendar year by any of such
18 individuals with respect to such dwelling unit
19 shall be determined by treating all of such indi-
20 viduals as 1 taxpayer whose taxable year is
21 such calendar year.

22 “(B) There shall be allowable with respect
23 to such expenditures to each of such individ-
24 uals, a credit under subsection (a) for the tax-
25 able year in which such calendar year ends in



1 an amount which bears the same ratio to the
2 amount determined under subparagraph (A) as
3 the amount of such expenditures made by such
4 individual during such calendar year bears to
5 the aggregate of such expenditures made by all
6 of such individuals during such calendar year.

7 “(C) Subparagraphs (A) and (B) shall be
8 applied separately with respect to qualified
9 solar water heating property expenditures and
10 qualified photovoltaic property expenditures.

11 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
12 HOUSING CORPORATION.—In the case of an indi-
13 vidual who is a tenant-stockholder (as defined in sec-
14 tion 216) in a cooperative housing corporation (as
15 defined in such section), such individual shall be
16 treated as having made his tenant-stockholder’s pro-
17 portionate share (as defined in section 216(b)(3)) of
18 any expenditures of such corporation.

19 “(3) CONDOMINIUMS.—

20 “(A) IN GENERAL.—In the case of an indi-
21 vidual who is a member of a condominium man-
22 agement association with respect to a condo-
23 minium which he owns, such individual shall be
24 treated as having made his proportionate share
25 of any expenditures of such association.



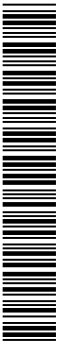
1 “(B) CONDOMINIUM MANAGEMENT ASSO-
2 CIATION.—For purposes of this paragraph, the
3 term ‘condominium management association’
4 means an organization which meets the require-
5 ments of paragraph (1) of section 528(c) (other
6 than subparagraph (E) thereof) with respect to
7 a condominium project substantially all of the
8 units of which are used as residences.

9 “(4) ALLOCATION IN CERTAIN CASES.—If less
10 than 80 percent of the use of an item is for nonbusi-
11 ness purposes, only that portion of the expenditures
12 for such item which is properly allocable to use for
13 nonbusiness purposes shall be taken into account.

14 “(5) WHEN EXPENDITURE MADE; AMOUNT OF
15 EXPENDITURE.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), an expenditure with respect
18 to an item shall be treated as made when the
19 original installation of the item is completed.

20 “(B) EXPENDITURES PART OF BUILDING
21 CONSTRUCTION.—In the case of an expenditure
22 in connection with the construction or recon-
23 struction of a structure, such expenditure shall
24 be treated as made when the original use of the



1 constructed or reconstructed structure by the
2 taxpayer begins.

3 “(C) AMOUNT.—The amount of any ex-
4 penditure shall be the cost thereof.

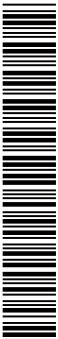
5 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
6 ERGY FINANCING.—For purposes of determining the
7 amount of expenditures made by any individual with
8 respect to any dwelling unit, there shall not be taken
9 into account expenditures which are made from sub-
10 sidized energy financing (as defined in section
11 48(a)(4)(A)).

12 “(e) BASIS ADJUSTMENTS.—For purposes of this
13 subtitle, if a credit is allowed under this section for any
14 expenditure with respect to any property, the increase in
15 the basis of such property which would (but for this sub-
16 section) result from such expenditure shall be reduced by
17 the amount of the credit so allowed.

18 “(f) TERMINATION.—The credit allowed under this
19 section shall not apply to taxable years beginning after
20 December 31, 2006 (December 31, 2008, with respect to
21 qualified photovoltaic property expenditures).”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subsection (a) of section 1016 is amended
24 by striking “and” at the end of paragraph (27), by
25 striking the period at the end of paragraph (28) and



1 inserting “, and”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(29) to the extent provided in section 25C(e),
4 in the case of amounts with respect to which a credit
5 has been allowed under section 25C.”.

6 (2) The table of sections for subpart A of part
7 IV of subchapter A of chapter 1 is amended by in-
8 serting after the item relating to section 25B the fol-
9 lowing new item:

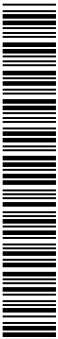
“Sec. 25C. Residential solar energy property.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years ending after De-
12 cember 31, 2003.

13 **SEC. 41002. EXTENSION AND EXPANSION OF CREDIT FOR**
14 **ELECTRICITY PRODUCED FROM RENEWABLE**
15 **RESOURCES.**

16 (a) EXTENSION OF CREDIT FOR WIND AND CLOSED-
17 LOOP BIOMASS FACILITIES.—Subparagraphs (A) and (B)
18 of section 45(c)(3) are each amended by striking “2004”
19 and inserting “2007”.

20 (b) EXPANSION OF CREDIT FOR OPEN-LOOP BIO-
21 MASS, LANDFILL GAS FACILITIES, AND TRASH COMBUS-
22 TION FACILITIES.—Paragraph (3) of section 45(c) is
23 amended by adding at the end the following new subpara-
24 graphs:



1 “(D) OPEN-LOOP BIOMASS FACILITIES.—

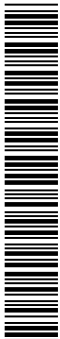
2 In the case of a facility using open-loop biomass
3 to produce electricity, the term ‘qualified facil-
4 ity’ means any facility owned by the taxpayer
5 which is originally placed in service before Jan-
6 uary 1, 2007.

7 “(E) LANDFILL GAS FACILITIES.—In the
8 case of a facility producing electricity from gas
9 derived from the biodegradation of municipal
10 solid waste, the term ‘qualified facility’ means
11 any facility owned by the taxpayer which is
12 originally placed in service before January 1,
13 2007.

14 “(F) TRASH COMBUSTION FACILITIES.—In
15 the case of a facility which burns municipal
16 solid waste to produce electricity, the term
17 ‘qualified facility’ means any facility owned by
18 the taxpayer which is originally placed in serv-
19 ice after the date of the enactment of this sub-
20 paragraph and before January 1, 2007.”.

21 (c) DEFINITION AND SPECIAL RULES.—Subsection
22 (c) of section 45 is amended by adding at the end the
23 following new paragraphs:

24 “(5) OPEN-LOOP BIOMASS.—The term ‘open-
25 loop biomass’ means any solid, nonhazardous, cel-



1 lulosic waste material which is segregated from other
2 waste materials and which is derived from—

3 “(A) any of the following forest-related re-
4 sources: mill residues, precommercial thinnings,
5 slash, and brush,

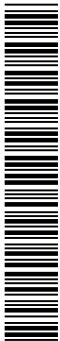
6 “(B) solid wood waste materials, including
7 waste pallets, crates, dunnage, manufacturing
8 and construction wood wastes (other than pres-
9 sure-treated, chemically-treated, or painted
10 wood wastes), and landscape or right-of-way
11 tree trimmings, but not including municipal
12 solid waste (garbage), gas derived from the bio-
13 degradation of solid waste, or paper that is
14 commonly recycled, or

15 “(C) agriculture sources, including orchard
16 tree crops, vineyard, grain, legumes, sugar, and
17 other crop by-products or residues.

18 Such term shall not include closed-loop biomass.

19 “(6) REDUCED CREDIT FOR CERTAIN
20 PREEFFECTIVE DATE FACILITIES.—In the case of
21 any facility described in subparagraph (D) or (E) of
22 paragraph (3) which is placed in service before the
23 date of the enactment of this paragraph—

24 “(A) subsection (a)(1) shall be applied by
25 substituting ‘1.0 cents’ for ‘1.5 cents’, and

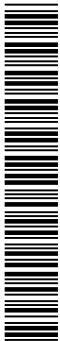


1 “(B) the 5-year period beginning on the
2 date of the enactment of this paragraph shall
3 be substituted in lieu of the 10-year period in
4 subsection (a)(2)(A)(ii).

5 “(7) CREDIT ELIGIBILITY FOR OPEN-LOOP BIO-
6 MASS FACILITIES.—In the case of any facility de-
7 scribed in paragraph (3)(D) which is placed in serv-
8 ice before the date of enactment of this paragraph,
9 if the owner of such facility is not the producer of
10 the electricity, the person eligible for the credit al-
11 lowable under subsection (a) is the lessee or the op-
12 erator of such facility.

13 “(8) LIMIT ON REDUCTIONS FOR GRANTS, ETC.,
14 FOR OPEN-LOOP BIOMASS FACILITIES.—If the
15 amount of the credit determined under subsection
16 (a) with respect to any open-loop biomass facility is
17 required to be reduced under paragraph (3) of sub-
18 section (b), the fraction under such paragraph shall
19 in no event be greater than $\frac{1}{2}$.

20 “(9) COORDINATION WITH SECTION 29.—The
21 term ‘qualified facility’ shall not include any facility
22 the production from which is allowed as a credit
23 under section 29 for the taxable year or any prior
24 taxable year.”.



1 (d) QUALIFIED ENERGY RESOURCES.—Paragraph
2 (1) of section 45(c) (relating to qualified energy resources)
3 is amended to read as follows:

4 “(1) QUALIFIED ENERGY RESOURCES.—The
5 term ‘qualified energy resources’ means any resource
6 described in paragraph (3) which is used to generate
7 electricity at a qualified facility.”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to electricity sold after the date
10 of the enactment of this Act, in taxable years ending after
11 such date.

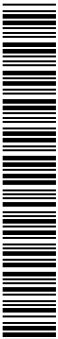
12 **SEC. 41003. CREDIT FOR QUALIFIED FUEL CELL POWER**
13 **PLANTS.**

14 (a) BUSINESS PROPERTY.—

15 (1) IN GENERAL.—Subparagraph (A) of section
16 48(a)(3) (defining energy property) is amended by
17 striking “or” at the end of clause (i), by adding
18 “or” at the end of clause (ii), and by inserting after
19 clause (ii) the following new clause:

20 “(iii) equipment which is part of a
21 qualified fuel cell power plant,”.

22 (2) QUALIFIED FUEL CELL POWER PLANT.—
23 Subsection (a) of section 48 is amended by redesignig-
24 nating paragraphs (4) and (5) as paragraphs (5)



1 and (6), respectively, and by inserting after para-
2 graph (3) the following new paragraph:

3 “(4) QUALIFIED FUEL CELL POWER PLANT.—
4 For purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘qualified
6 fuel cell power plant’ means a fuel cell power
7 plant that has an electricity-only generation ef-
8 ficiency greater than 30 percent.

9 “(B) LIMITATION.—The energy credit with
10 respect to any qualified fuel cell power plant for
11 any taxable year shall not exceed—

12 “(i) \$500 for each $\frac{1}{2}$ kilowatt of ca-
13 pacity of the power plant, reduced by

14 “(ii) the aggregate energy credits al-
15 lowed with respect to such power plant for
16 all prior taxable years.

17 “(C) FUEL CELL POWER PLANT.—The
18 term ‘fuel cell power plant’ means an integrated
19 system comprised of a fuel cell stack assembly
20 and associated balance of plant components
21 that converts a fuel into electricity using elec-
22 trochemical means.

23 “(D) TERMINATION.—Such term shall not
24 include any property placed in service after De-
25 cember 31, 2006.”.



1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to property placed in
3 service after December 31, 2003, under rules similar
4 to the rules of section 48(m) of the Internal Revenue
5 Code of 1986 (as in effect on the day before the
6 date of the enactment of the Revenue Reconciliation
7 Act of 1990).

8 (b) NONBUSINESS PROPERTY.—

9 (1) IN GENERAL.—Subpart A of part IV of sub-
10 chapter A of chapter 1 (relating to nonrefundable
11 personal credits) is amended by inserting after sec-
12 tion 25C the following new section:

13 **“SEC. 25D. NONBUSINESS QUALIFIED FUEL CELL POWER**
14 **PLANT.**

15 “(a) IN GENERAL.—In the case of an individual,
16 there shall be allowed as a credit against the tax imposed
17 by this chapter for the taxable year an amount equal to
18 10 percent of the qualified fuel cell power plant expendi-
19 tures which are paid or incurred during such year.

20 “(b) LIMITATIONS.—The credit allowed under sub-
21 section (a) with respect to any qualified fuel cell power
22 plant for any taxable year shall not exceed—

23 “(1) \$500 for each $\frac{1}{2}$ kilowatt of capacity of
24 the power plant, reduced by



1 “(2) the aggregate energy credits allowed with
2 respect to such power plant for all prior taxable
3 years.

4 “(c) QUALIFIED FUEL CELL POWER PLANT EX-
5 PENDITURES.—For purposes of this section, the term
6 ‘qualified fuel cell power plant expenditures’ means ex-
7 penditures by the taxpayer for any qualified fuel cell power
8 plant (as defined in section 48(a)(4))—

9 “(1) which meets the requirements of subpara-
10 graphs (B) and (D) of section 48(a)(3), and

11 “(2) which is installed on or in connection with
12 a dwelling unit—

13 “(A) which is located in the United States,
14 and

15 “(B) which is used by the taxpayer as a
16 residence.

17 Such term includes expenditures for labor costs properly
18 allocable to the onsite preparation, assembly, or original
19 installation of the property.

20 “(d) SPECIAL RULES.—For purposes of this section,
21 rules similar to the rules of section 25C(d) shall apply.

22 “(e) BASIS ADJUSTMENTS.—For purposes of this
23 subtitle, if a credit is allowed under this section for any
24 expenditure with respect to any property, the increase in
25 the basis of such property which would (but for this sub-



1 section) result from such expenditure shall be reduced by
2 the amount of the credit so allowed.

3 “(f) TERMINATION.—This section shall not apply to
4 any expenditure made after December 31, 2006.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Subsection (a) of section 1016 is
7 amended by striking “and” at the end of para-
8 graph (28), by striking the period at the end of
9 paragraph (29) and inserting “, and”, and by
10 adding at the end the following new paragraph:

11 “(30) to the extent provided in section 25D(e),
12 in the case of amounts with respect to which a credit
13 has been allowed under section 25D.”.

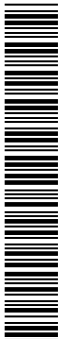
14 (B) The table of sections for subpart A of
15 part IV of subchapter A of chapter 1 is amend-
16 ed by inserting after the item relating to section
17 25C the following new item:

“Sec. 25D. Nonbusiness qualified fuel cell power plant.”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to expenditures paid
20 or incurred after December 31, 2003, in taxable
21 years ending after such date.

22 **SEC. 41004. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**
23 **MENTS TO EXISTING HOMES.**

24 (a) IN GENERAL.—Subpart A of part IV of sub-
25 chapter A of chapter 1 (relating to nonrefundable personal



1 credits) is amended by inserting after section 25D the fol-
2 lowing new section:

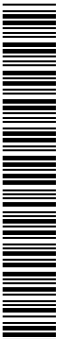
3 **“SEC. 25E. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
4 **ING HOMES.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
6 dividual, there shall be allowed as a credit against the tax
7 imposed by this chapter for the taxable year an amount
8 equal to 20 percent of the amount paid or incurred by
9 the taxpayer for qualified energy efficiency improvements
10 installed during such taxable year.

11 “(b) LIMITATIONS.—

12 “(1) MAXIMUM CREDIT.—The credit allowed by
13 this section with respect to a dwelling shall not ex-
14 ceed \$2,000.

15 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
16 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
17 credit was allowed to the taxpayer under subsection
18 (a) with respect to a dwelling in 1 or more prior tax-
19 able years, the amount of the credit otherwise allow-
20 able for the taxable year with respect to that dwell-
21 ing shall not exceed the amount of \$2,000 reduced
22 by the sum of the credits allowed under subsection
23 (a) to the taxpayer with respect to the dwelling for
24 all prior taxable years.



1 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
2 credit allowable under subsection (a) exceeds the limita-
3 tion imposed by section 26(a) for such taxable year re-
4 duced by the sum of the credits allowable under this sub-
5 part (other than this section) for such taxable year, such
6 excess shall be carried to the succeeding taxable year and
7 added to the credit allowable under subsection (a) for such
8 succeeding taxable year.

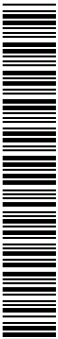
9 “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-
10 MENTS.—For purposes of this section, the term ‘qualified
11 energy efficiency improvements’ means any energy effi-
12 cient building envelope component which meets the pre-
13 scriptive criteria for such component established by the
14 2000 International Energy Conservation Code (or, in the
15 case of metal roofs with appropriate pigmented coatings,
16 meets the Energy Star program requirements), if—

17 “(1) such component is installed in or on a
18 dwelling—

19 “(A) located in the United States, and

20 “(B) owned and used by the taxpayer as
21 the taxpayer’s principal residence (within the
22 meaning of section 121),

23 “(2) the original use of such component com-
24 mences with the taxpayer, and



1 “(3) such component reasonably can be ex-
2 pected to remain in use for at least 5 years.

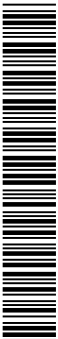
3 If the aggregate cost of such components with respect to
4 any dwelling exceeds \$1,000, such components shall be
5 treated as qualified energy efficiency improvements only
6 if such components are also certified in accordance with
7 subsection (e) as meeting such criteria.

8 “(e) CERTIFICATION.—The certification described in
9 subsection (d) shall be—

10 “(1) determined on the basis of the technical
11 specifications or applicable ratings (including prod-
12 uct labeling requirements) for the measurement of
13 energy efficiency, based upon energy use or building
14 envelope component performance, for the energy effi-
15 cient building envelope component,

16 “(2) provided by a local building regulatory au-
17 thority, a utility, a manufactured home production
18 inspection primary inspection agency (IPIA), or an
19 accredited home energy rating system provider who
20 is accredited by or otherwise authorized to use ap-
21 proved energy performance measurement methods by
22 the Residential Energy Services Network
23 (RESNET), and

24 “(3) made in writing in a manner that specifies
25 in readily verifiable fashion the energy efficient



1 building envelope components installed and their re-
2 spective energy efficiency levels.

3 “(f) DEFINITIONS AND SPECIAL RULES.—

4 “(1) TENANT-STOCKHOLDER IN COOPERATIVE
5 HOUSING CORPORATION.—In the case of an indi-
6 vidual who is a tenant-stockholder (as defined in sec-
7 tion 216) in a cooperative housing corporation (as
8 defined in such section), such individual shall be
9 treated as having paid his tenant-stockholder’s pro-
10 portionate share (as defined in section 216(b)(3)) of
11 the cost of qualified energy efficiency improvements
12 made by such corporation.

13 “(2) CONDOMINIUMS.—

14 “(A) IN GENERAL.—In the case of an indi-
15 vidual who is a member of a condominium man-
16 agement association with respect to a condo-
17 minium which he owns, such individual shall be
18 treated as having paid his proportionate share
19 of the cost of qualified energy efficiency im-
20 provements made by such association.

21 “(B) CONDOMINIUM MANAGEMENT ASSO-
22 CIATION.—For purposes of this paragraph, the
23 term ‘condominium management association’
24 means an organization which meets the require-
25 ments of paragraph (1) of section 528(c) (other

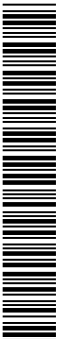


1 than subparagraph (E) thereof) with respect to
2 a condominium project substantially all of the
3 units of which are used as residences.

4 “(3) BUILDING ENVELOPE COMPONENT.—The
5 term ‘building envelope component’ means insulation
6 material or system which is specifically and pri-
7 marily designed to reduce the heat loss or gain of a
8 dwelling when installed in or on such dwelling, exte-
9 rior windows (including skylights) and doors, and
10 metal roofs with appropriate pigmented coatings
11 which are specifically and primarily designed to re-
12 duce the heat gain of a dwelling when installed in
13 or on such dwelling.

14 “(4) MANUFACTURED HOMES INCLUDED.—For
15 purposes of this section, the term ‘dwelling’ includes
16 a manufactured home which conforms to Federal
17 Manufactured Home Construction and Safety Stand-
18 ards (section 3280 of title 24, Code of Federal Reg-
19 ulations, as in effect on April 3, 2003).

20 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
21 title, if a credit is allowed under this section for any ex-
22 penditure with respect to any property, the increase in the
23 basis of such property which would (but for this sub-
24 section) result from such expenditure shall be reduced by
25 the amount of the credit so allowed.



1 “(h) APPLICATION OF SECTION.—This section shall
2 apply to qualified energy efficiency improvements installed
3 after December 31, 2003, and before January 1, 2007.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Subsection (c) of section 23 is amended by
6 striking “section 1400C” and inserting “sections
7 25E and 1400C”.

8 (2) Subsection (a) of section 1016 is amended
9 by striking “and” at the end of paragraph (29), by
10 striking the period at the end of paragraph (30) and
11 inserting “, and”, and by adding at the end the fol-
12 lowing new paragraph:

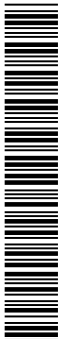
13 “(31) to the extent provided in section 25E(g),
14 in the case of amounts with respect to which a credit
15 has been allowed under section 25E.”.

16 (3) Subsection (d) of section 1400C is amended
17 by inserting “and section 25E” after “this section”.

18 (4) The table of sections for subpart A of part
19 IV of subchapter A of chapter 1 is amended by in-
20 serting after the item relating to section 25D the
21 following new item:

“Sec. 25E. Energy efficiency improvements to existing homes.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years ending after De-
24 cember 31, 2003.



1 **SEC. 41005. BUSINESS CREDIT FOR CONSTRUCTION OF NEW**
2 **ENERGY EFFICIENT HOME.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 (relating to business related cred-
5 its) is amended by inserting after section 45F the fol-
6 lowing new section:

7 **“SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.**

8 “(a) IN GENERAL.—For purposes of section 38, in
9 the case of an eligible contractor, the credit determined
10 under this section for the taxable year is an amount equal
11 to the aggregate adjusted bases of all energy efficient
12 property installed in a qualified new energy efficient home
13 during construction of such home.

14 “(b) LIMITATIONS.—

15 “(1) MAXIMUM CREDIT.—

16 “(A) IN GENERAL.—The credit allowed by
17 this section with respect to a dwelling shall not
18 exceed \$2,000.

19 “(B) PRIOR CREDIT AMOUNTS ON SAME
20 DWELLING TAKEN INTO ACCOUNT.—If a credit
21 was allowed under subsection (a) with respect
22 to a dwelling in 1 or more prior taxable years,
23 the amount of the credit otherwise allowable for
24 the taxable year with respect to that dwelling
25 shall not exceed the amount of \$2,000 reduced
26 by the sum of the credits allowed under sub-



1 section (a) with respect to the dwelling for all
2 prior taxable years.

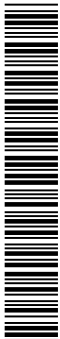
3 “(2) COORDINATION WITH REHABILITATION
4 AND ENERGY CREDITS.—For purposes of this
5 section—

6 “(A) the basis of any property referred to
7 in subsection (a) shall be reduced by that por-
8 tion of the basis of any property which is attrib-
9 utable to qualified rehabilitation expenditures
10 (as defined in section 47(c)(2)) or to the energy
11 percentage of energy property (as determined
12 under section 48(a)), and

13 “(B) expenditures taken into account
14 under either section 47 or 48(a) shall not be
15 taken into account under this section.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
18 ble contractor’ means the person who constructed
19 the new energy efficient home, or in the case of a
20 manufactured home which conforms to Federal
21 Manufactured Home Construction and Safety Stand-
22 ards (section 3280 of title 24, Code of Federal Reg-
23 ulations, as in effect on April 3, 2003), the manufac-
24 tured home producer of such home.



1 “(2) ENERGY EFFICIENT PROPERTY.—The
2 term ‘energy efficient property’ means any energy
3 efficient building envelope component, and any en-
4 ergy efficient heating or cooling appliance.

5 “(3) QUALIFIED NEW ENERGY EFFICIENT
6 HOME.—The term ‘qualified new energy efficient
7 home’ means a dwelling—

8 “(A) located in the United States,

9 “(B) the construction of which is substan-
10 tially completed after December 31, 2003,

11 “(C) the original use of which is as a prin-
12 cipal residence (within the meaning of section
13 121) which commences with the person who ac-
14 quires such dwelling from the eligible con-
15 tractor, and

16 “(D) which is certified to have a level of
17 annual heating and cooling energy consumption
18 that is at least 30 percent below the annual
19 level of heating and cooling energy consumption
20 of a comparable dwelling constructed in accord-
21 ance with the standards of the 2000 Inter-
22 national Energy Conservation Code and to have
23 building envelope component improvements ac-
24 count for $\frac{1}{3}$ of such 30 percent.



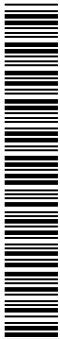
1 “(4) CONSTRUCTION.—The term ‘construction’
2 includes reconstruction and rehabilitation.

3 “(5) ACQUIRE.—The term ‘acquire’ includes
4 purchase and, in the case of reconstruction and re-
5 habilitation, such term includes a binding written
6 contract for such reconstruction or rehabilitation.

7 “(6) BUILDING ENVELOPE COMPONENT.—The
8 term ‘building envelope component’ means insulation
9 material or system which is specifically and pri-
10 marily designed to reduce the heat loss or gain of a
11 dwelling when installed in or on such dwelling, exte-
12 rior windows (including skylights) and doors, and
13 metal roofs with appropriate pigmented coatings
14 which are specifically and primarily designed to re-
15 duce the heat gain of a dwelling when installed in
16 or on such dwelling.

17 “(7) MANUFACTURED HOME INCLUDED.—The
18 term ‘dwelling’ includes a manufactured home con-
19 forming to Federal Manufactured Home Construc-
20 tion and Safety Standards (section 3280 of title 24,
21 Code of Federal Regulations, as in effect on April 3,
22 2003).

23 “(d) CERTIFICATION.—



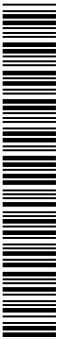
1 “(1) METHOD.—A certification described in
2 subsection (c)(3)(D) shall be determined on the
3 basis of one of the following methods:

4 “(A) The technical specifications or appli-
5 cable ratings (including product labeling re-
6 quirements) for the measurement of energy effi-
7 ciency for the energy efficient building envelope
8 component or energy efficient heating or cooling
9 appliance, based upon energy use or building
10 envelope component performance.

11 “(B) An energy performance measurement
12 method that utilizes computer software ap-
13 proved by organizations designated by the Sec-
14 retary.

15 “(2) PROVIDER.—Such certification shall be
16 provided by—

17 “(A) in the case of a method described in
18 paragraph (1)(A), a local building regulatory
19 authority, a utility, a manufactured home pro-
20 duction inspection primary inspection agency
21 (IPLA), or an accredited home energy rating
22 systems provider who is accredited by, or other-
23 wise authorized to use, approved energy per-
24 formance measurement methods by the Home



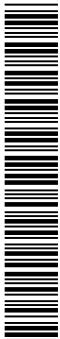
1 Energy Ratings Systems Council or the Na-
2 tional Association of State Energy Officials, or

3 “(B) in the case of a method described in
4 paragraph (1)(B), an individual recognized by
5 an organization designated by the Secretary for
6 such purposes.

7 “(3) FORM.—Such certification shall be made
8 in writing in a manner that specifies in readily veri-
9 fiable fashion the energy efficient building envelope
10 components and energy efficient heating or cooling
11 appliances installed and their respective energy effi-
12 ciency levels, and in the case of a method described
13 in subparagraph (B) of paragraph (1), accompanied
14 by written analysis documenting the proper applica-
15 tion of a permissible energy performance measure-
16 ment method to the specific circumstances of such
17 dwelling.

18 “(4) REGULATIONS.—

19 “(A) IN GENERAL.—In prescribing regula-
20 tions under this subsection for energy perform-
21 ance measurement methods, the Secretary shall
22 prescribe procedures for calculating annual en-
23 ergy costs for heating and cooling and cost sav-
24 ings and for the reporting of the results. Such
25 regulations shall—

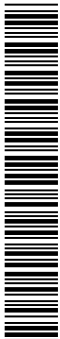


1 “(i) be based on the National Home
2 Energy Rating Technical Guidelines of the
3 National Association of State Energy Offi-
4 cials, the Home Energy Rating Guidelines
5 of the Home Energy Rating Systems
6 Council, or the modified 2001 California
7 Residential ACM manual,

8 “(ii) provide that any calculation pro-
9 cedures be developed such that the same
10 energy efficiency measures allow a home to
11 qualify for the credit under this section re-
12 gardless of whether the house uses a gas
13 or oil furnace or boiler or an electric heat
14 pump, and

15 “(iii) require that any computer soft-
16 ware allow for the printing of the Federal
17 tax forms necessary for the credit under
18 this section and explanations for the home-
19 buyer of the energy efficient features that
20 were used to comply with the requirements
21 of this section.

22 “(B) PROVIDERS.—For purposes of para-
23 graph (2)(B), the Secretary shall establish re-
24 quirements for the designation of individuals
25 based on the requirements for energy consult-



1 ants and home energy raters specified by the
2 National Association of State Energy Officials.

3 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
4 title, if a credit is determined under this section for any
5 expenditure with respect to any property, the increase in
6 the basis of such property which would (but for this sub-
7 section) result from such expenditure shall be reduced by
8 the amount of the credit so determined.

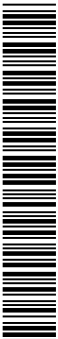
9 “(f) APPLICATION OF SECTION.—Subsection (a) shall
10 apply to dwellings purchased during the period beginning
11 on January 1, 2004, and ending on December 31, 2006.”.

12 (b) CREDIT MADE PART OF GENERAL BUSINESS
13 CREDIT.—Subsection (b) of section 38 (relating to current
14 year business credit) is amended by striking “plus” at the
15 end of paragraph (14), by striking the period at the end
16 of paragraph (15) and inserting “, plus”, and by adding
17 at the end thereof the following new paragraph:

18 “(16) the new energy efficient home credit de-
19 termined under section 45G.”.

20 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
21 (relating to certain expenses for which credits are allow-
22 able) is amended by adding at the end thereof the fol-
23 lowing new subsection:

24 “(d) NEW ENERGY EFFICIENT HOME EXPENSES.—
25 No deduction shall be allowed for that portion of expenses



1 for a new energy efficient home otherwise allowable as a
2 deduction for the taxable year which is equal to the
3 amount of the credit determined for such taxable year
4 under section 45G.”.

5 (d) LIMITATION ON CARRYBACK.—Subsection (d) of
6 section 39 is amended by adding at the end the following
7 new paragraph:

8 “(11) NO CARRYBACK OF NEW ENERGY EFFI-
9 CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—
10 No portion of the unused business credit for any
11 taxable year which is attributable to the credit deter-
12 mined under section 45G may be carried back to any
13 taxable year ending before January 1, 2004.”.

14 (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS
15 CREDITS.—Subsection (c) of section 196 is amended by
16 striking “and” at the end of paragraph (9), by striking
17 the period at the end of paragraph (10) and inserting “,
18 and”, and by adding after paragraph (10) the following
19 new paragraph:

20 “(11) the new energy efficient home credit de-
21 termined under section 45G.”.

22 (f) CLERICAL AMENDMENT.—The table of sections
23 for subpart D of part IV of subchapter A of chapter 1
24 is amended by inserting after the item relating to section
25 45F the following new item:

“Sec. 45G. New energy efficient home credit.”.

1 (g) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years ending after De-
3 cember 31, 2003.

4 **SEC. 41006. ENERGY CREDIT FOR COMBINED HEAT AND**
5 **POWER SYSTEM PROPERTY.**

6 (a) IN GENERAL.—Subparagraph (A) of section
7 48(a)(3) (defining energy property) is amended by strik-
8 ing “or” at the end of clause (ii), by adding “or” at the
9 end of clause (iii), and by inserting after clause (iii) the
10 following new clause:

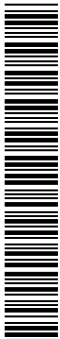
11 “(iv) combined heat and power system
12 property,”.

13 (b) COMBINED HEAT AND POWER SYSTEM PROP-
14 erty.—Subsection (a) of section 48 is amended by redes-
15 ignating paragraphs (5) and (6) as paragraphs (6) and
16 (7), respectively, and by inserting after paragraph (4) the
17 following new paragraph:

18 “(5) COMBINED HEAT AND POWER SYSTEM
19 PROPERTY.—For purposes of this subsection—

20 “(A) COMBINED HEAT AND POWER SYS-
21 TEM PROPERTY.—The term ‘combined heat and
22 power system property’ means property com-
23 prising a system—

24 “(i) which uses the same energy
25 source for the simultaneous or sequential



1 generation of electrical power, mechanical
2 shaft power, or both, in combination with
3 the generation of steam or other forms of
4 useful thermal energy (including heating
5 and cooling applications),

6 “(ii) which has an electrical capacity
7 of more than 50 kilowatts or a mechanical
8 energy capacity of more than 67 horse-
9 power or an equivalent combination of elec-
10 trical and mechanical energy capacities,

11 “(iii) which produces—

12 “(I) at least 20 percent of its
13 total useful energy in the form of
14 thermal energy, and

15 “(II) at least 20 percent of its
16 total useful energy in the form of elec-
17 trical or mechanical power (or com-
18 bination thereof),

19 “(iv) the energy efficiency percentage
20 of which exceeds 60 percent (70 percent in
21 the case of a system with an electrical ca-
22 pacity in excess of 50 megawatts or a me-
23 chanical energy capacity in excess of
24 67,000 horsepower, or an equivalent com-



1 bination of electrical and mechanical en-
2 ergy capacities), and

3 “(v) which is placed in service after
4 December 31, 2003, and before January 1,
5 2007.

6 “(B) SPECIAL RULES.—

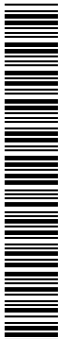
7 “(i) ENERGY EFFICIENCY PERCENT-
8 AGE.—For purposes of subparagraph
9 (A)(iv), the energy efficiency percentage of
10 a system is the fraction—

11 “(I) the numerator of which is
12 the total useful electrical, thermal,
13 and mechanical power produced by
14 the system at normal operating rates,
15 and

16 “(II) the denominator of which is
17 the lower heating value of the primary
18 fuel source for the system.

19 “(ii) DETERMINATIONS MADE ON BTU
20 BASIS.—The energy efficiency percentage
21 and the percentages under subparagraph
22 (A)(iii) shall be determined on a Btu basis.

23 “(iii) INPUT AND OUTPUT PROPERTY
24 NOT INCLUDED.—The term ‘combined heat
25 and power system property’ does not in-



1 clude property used to transport the en-
2 ergy source to the facility or to distribute
3 energy produced by the facility.

4 “(iv) PUBLIC UTILITY PROPERTY.—

5 “(I) ACCOUNTING RULE FOR
6 PUBLIC UTILITY PROPERTY.—If the
7 combined heat and power system
8 property is public utility property (as
9 defined in section 168(i)(1)), the tax-
10 payer may only claim the credit under
11 the subsection if, with respect to such
12 property, the taxpayer uses a normal-
13 ization method of accounting.

14 “(II) CERTAIN EXCEPTION NOT
15 TO APPLY.—The matter in paragraph
16 (3) which follows subparagraph (D)
17 shall not apply to combined heat and
18 power system property.

19 “(C) EXTENSION OF DEPRECIATION RE-
20 COVERY PERIOD.—If a taxpayer is allowed cred-
21 it under this section for combined heat and
22 power system property and such property would
23 (but for this subparagraph) have a class life of
24 15 years or less under section 168, such prop-



1 erty shall be treated as having a 22-year class
2 life for purposes of section 168.”.

3 (c) NO CARRYBACK OF ENERGY CREDIT BEFORE
4 EFFECTIVE DATE.—Subsection (d) of section 39 is
5 amended by adding at the end the following new para-
6 graph:

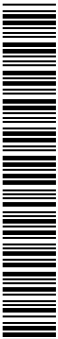
7 “(12) NO CARRYBACK OF ENERGY CREDIT BE-
8 FORE EFFECTIVE DATE.—No portion of the unused
9 business credit for any taxable year which is attrib-
10 utable to the energy credit with respect to property
11 described in section 48(a)(5) may be carried back to
12 a taxable year ending before January 1, 2004.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to property placed in service after
15 December 31, 2003, in taxable years ending after such
16 date.

17 **SEC. 41007. NEW NONREFUNDABLE PERSONAL CREDITS AL-**
18 **LOWED AGAINST REGULAR AND MINIMUM**
19 **TAXES.**

20 (a) IN GENERAL.—

21 (1) SECTION 25C.—Section 25C(b), as added
22 by section 41001, is amended by adding at the end
23 the following new paragraph:



1 “(3) LIMITATION BASED ON AMOUNT OF
2 TAX.—The credit allowed under subsection (a) for
3 the taxable year shall not exceed the excess of—

4 “(A) the sum of the regular tax liability
5 (as defined in section 26(b)) plus the tax im-
6 posed by section 55, over

7 “(B) the sum of the credits allowable
8 under this subpart (other than this section and
9 section 25D and 25E) and section 27 for the
10 taxable year.”.

11 (2) SECTION 25D.—Section 25D(b), as added
12 by section 103, is amended to read as follows:

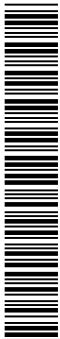
13 “(b) LIMITATIONS.—

14 “(1) IN GENERAL.—The credit allowed under
15 subsection (a) with respect to any qualified fuel cell
16 power plant for any taxable year shall not exceed—

17 “(A) \$500 for each $\frac{1}{2}$ kilowatt of capacity
18 of the power plant, reduced by

19 “(B) the aggregate energy credits allowed
20 with respect to such power plant for all prior
21 taxable years.

22 “(2) LIMITATION BASED ON AMOUNT OF
23 TAX.—The credit allowed under subsection (a) for
24 the taxable year shall not exceed the excess of—



1 “(A) the sum of the regular tax liability
2 (as defined in section 26(b)) plus the tax im-
3 posed by section 55, over

4 “(B) the sum of the credits allowable
5 under this subpart (other than this section and
6 section 25E) and section 27 for the taxable
7 year.”.

8 (3) SECTION 25E.—Section 25E(b), as added
9 by section 41004, is amended by adding at the end
10 the following new paragraph:

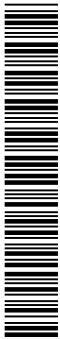
11 “(3) LIMITATION BASED ON AMOUNT OF
12 TAX.—The credit allowed under subsection (a) for
13 the taxable year shall not exceed the excess of—

14 “(A) the sum of the regular tax liability
15 (as defined in section 26(b)) plus the tax im-
16 posed by section 55, over

17 “(B) the sum of the credits allowable
18 under this subpart (other than this section) and
19 section 27 for the taxable year.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 23(b)(4)(B) is amended by inserting
22 “and sections 25C, 25D, and 25E” after “this sec-
23 tion”.



1 (2) Section 24(b)(3)(B) is amended by striking
2 “and 25B” and inserting “, 25B, 25C, 25D, and
3 25E”.

4 (3) Section 25(e)(1)(C) is amended by inserting
5 “25C, 25D, and 25E” after “25B,”.

6 (4) Section 25B(g)(2) is amended by striking
7 “section 23” and inserting “sections 23, 25C, 25D,
8 and 25E”.

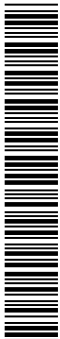
9 (5) Section 25E(c), as added by section 41004,
10 is amended by striking “section 26(a) for such tax-
11 able year reduced by the sum of the credits allowable
12 under this subpart (other than this section)” and in-
13 serting “subsection (b)(3)”.

14 (6) Section 26(a)(1) is amended by striking
15 “and 25B” and inserting “25B, 25C, 25D, and
16 25E”.

17 (7) Section 904(h) is amended by striking “and
18 25B” and inserting “25B, 25C, 25D, and 25E”.

19 (8) Section 1400C(d) is amended by striking
20 “and 25B” and inserting “25B, 25C, 25D, and
21 25E”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2003.



1 **SEC. 41008. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE**
2 **TAXES ON RAILROADS AND INLAND WATER-**
3 **WAY TRANSPORTATION WHICH REMAIN IN**
4 **GENERAL FUND.**

5 (a) TAXES ON TRAINS.—

6 (1) IN GENERAL.—Subparagraph (A) of section
7 4041(a)(1) is amended by striking “or a diesel-pow-
8 ered train” each place it appears and by striking “or
9 train”.

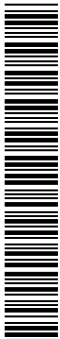
10 (2) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (C) of section
12 4041(a)(1) is amended by striking clause (ii)
13 and by redesignating clause (iii) as clause (ii).

14 (B) Subparagraph (C) of section
15 4041(b)(1) is amended by striking all that fol-
16 lows “section 6421(e)(2)” and inserting a pe-
17 riod.

18 (C) Subsection (d) of section 4041 is
19 amended by redesignating paragraph (3) as
20 paragraph (4) and by inserting after paragraph
21 (2) the following new paragraph:

22 “(3) DIESEL FUEL USED IN TRAINS.—There is
23 hereby imposed a tax of 0.1 cent per gallon on any
24 liquid other than gasoline (as defined in section
25 4083)—



1 “(A) sold by any person to an owner, les-
2 see, or other operator of a diesel-powered train
3 for use as a fuel in such train, or

4 “(B) used by any person as a fuel in a die-
5 sel-powered train unless there was a taxable
6 sale of such fuel under subparagraph (A).

7 No tax shall be imposed by this paragraph on the
8 sale or use of any liquid if tax was imposed on such
9 liquid under section 4081.”

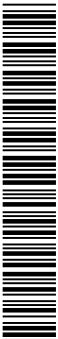
10 (D) Subsection (f) of section 4082 is
11 amended by striking “section 4041(a)(1)” and
12 inserting “subsections (d)(3) and (a)(1) of sec-
13 tion 4041, respectively”.

14 (E) Paragraph (3) of section 4083(a) is
15 amended by striking “or a diesel-powered
16 train”.

17 (F) Paragraph (3) of section 6421(f) is
18 amended to read as follows:

19 “(3) GASOLINE USED IN TRAINS.—In the case
20 of gasoline used as a fuel in a train, this section
21 shall not apply with respect to the Leaking Under-
22 ground Storage Tank Trust Fund financing rate
23 under section 4081.”

24 (G) Paragraph (3) of section 6427(l) is
25 amended to read as follows:



1 “(3) REFUND OF CERTAIN TAXES ON FUEL
2 USED IN DIESEL-POWERED TRAINS.—For purposes
3 of this subsection, the term ‘nontaxable use’ includes
4 fuel used in a diesel-powered train. The preceding
5 sentence shall not apply to the tax imposed by sec-
6 tion 4041(d) and the Leaking Underground Storage
7 Tank Trust Fund financing rate under section 4081
8 except with respect to fuel sold for exclusive use by
9 a State or any political subdivision thereof.”

10 (b) FUEL USED ON INLAND WATERWAYS.—

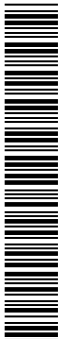
11 (1) IN GENERAL.—Paragraph (1) of section
12 4042(b) is amended by adding “and” at the end of
13 subparagraph (A), by striking “, and” at the end of
14 subparagraph (B) and inserting a period, and by
15 striking subparagraph (C).

16 (2) CONFORMING AMENDMENT.—Paragraph (2)
17 of section 4042(b) is amended by striking subpara-
18 graph (C).

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on January 1, 2004.

21 **SEC. 41009. REDUCED MOTOR FUEL EXCISE TAX ON CER-**
22 **TAIN MIXTURES OF DIESEL FUEL.**

23 (a) IN GENERAL.—Paragraph (2) of section 4081(a)
24 is amended by adding at the end the following:



1 “(C) DIESEL-WATER FUEL EMULSION.—In
2 the case of diesel-water fuel emulsion at least
3 14 percent of which is water and with respect
4 to which the emulsion additive is registered by
5 a United States manufacturer with the Envi-
6 ronmental Protection Agency pursuant to sec-
7 tion 211 of the Clean Air Act (as in effect on
8 March 31, 2003), subparagraph (A)(iii) shall be
9 applied by substituting ‘19.7 cents’ for ‘24.3
10 cents’.”.

11 (b) SPECIAL RULES FOR DIESEL-WATER FUEL
12 EMULSIONS.—

13 (1) REFUNDS FOR TAX-PAID PURCHASES.—Sec-
14 tion 6427 is amended by redesignating subsections
15 (m) through (p) as subsections (n) through (q), re-
16 spectively, and by inserting after subsection (l) the
17 following new subsection:

18 “(m) DIESEL FUEL USED TO PRODUCE EMUL-
19 SION.—

20 “(1) IN GENERAL.—Except as provided in sub-
21 section (k), if any diesel fuel on which tax was im-
22 posed by section 4081 at the regular tax rate is used
23 by any person in producing an emulsion described in
24 section 4081(a)(2)(C) which is sold or used in such
25 person’s trade or business, the Secretary shall pay



1 (without interest) to such person an amount equal to
2 the excess of the regular tax rate over the incentive
3 tax rate with respect to such fuel.

4 “(2) DEFINITIONS.—For purposes of paragraph
5 (1)—

6 “(A) REGULAR TAX RATE.—The term ‘reg-
7 ular tax rate’ means the aggregate rate of tax
8 imposed by section 4081 determined without re-
9 gard to section 4081(a)(2)(C).

10 “(B) INCENTIVE TAX RATE.—The term
11 ‘incentive tax rate’ means the aggregate rate of
12 tax imposed by section 4081 determined with
13 regard to section 4081(a)(2)(C).”.

14 (2) LATER SEPARATION OF FUEL.—

15 (A) IN GENERAL.—Section 4081 (relating
16 to imposition of tax) is amended by redesign-
17 ating subsections (d) and (e) as subsections
18 (e) and (f), respectively, and by inserting after
19 subsection (c) the following new subsection:

20 “(d) LATER SEPARATION OF FUEL FROM DIESEL-
21 WATER FUEL EMULSION.—If any person separates the
22 taxable fuel from a diesel-water fuel emulsion on which
23 tax was imposed under subsection (a) at a rate determined
24 under subsection (a)(2)(C) (or with respect to which a
25 credit or payment was allowed or made by reason of sec-



tion 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.”.

(B) CONFORMING AMENDMENT.—Subsection (d) of section 6416 is amended by striking “section 4081(e)” and inserting “section 4081(f)”.

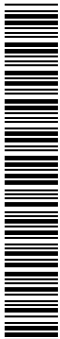
(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003.

SEC. 41010. REPEAL OF PHASEOUTS FOR QUALIFIED ELECTRIC VEHICLE CREDIT AND DEDUCTION FOR CLEAN FUEL-VEHICLES.

(a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Subsection (b) of section 30 (relating to limitations) is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—Paragraph (1) of section 179A(b) (relating to qualified clean-fuel vehicle property) is amended to read as follows:

“(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.— The cost which may be taken into account



1 under subsection (a)(1)(A) with respect to any
2 motor vehicle shall not exceed—

3 “(A) in the case of a motor vehicle not de-
4 scribed in subparagraph (B) or (C), \$2,000,

5 “(B) in the case of any truck or van with
6 a gross vehicle weight rating greater than
7 10,000 pounds but not greater than 26,000
8 pounds, \$5,000, or

9 “(C) \$50,000 in the case of—

10 “(i) a truck or van with a gross vehi-
11 cle weight rating greater than 26,000
12 pounds, or

13 “(ii) any bus which has a seating ca-
14 pacity of at least 20 adults (not including
15 the driver).”.

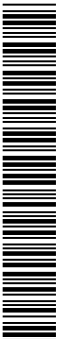
16 **SEC. 41011. ALTERNATIVE MOTOR VEHICLE CREDIT.**

17 (a) IN GENERAL.—Subpart B of part IV of sub-
18 chapter A of chapter 1 (relating to foreign tax credit, etc.)
19 is amended by adding at the end the following:

20 **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

21 “(a) ALLOWANCE OF CREDIT.—There shall be al-
22 lowed as a credit against the tax imposed by this chapter
23 for the taxable year an amount equal to the sum of—

24 “(1) the new qualified fuel cell motor vehicle
25 credit determined under subsection (b), and



1 “(2) the advanced lean burn technology motor
2 vehicle credit determined under subsection (c).

3 “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE
4 CREDIT.—

5 “(1) IN GENERAL.—For purposes of subsection
6 (a), the new qualified fuel cell motor vehicle credit
7 determined under this subsection with respect to a
8 new qualified fuel cell motor vehicle placed in service
9 by the taxpayer during the taxable year is—

10 “(A) \$4,000, if such vehicle has a gross ve-
11 hicle weight rating of not more than 8,500
12 pounds,

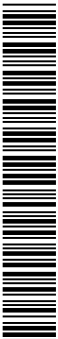
13 “(B) \$10,000, if such vehicle has a gross
14 vehicle weight rating of more than 8,500
15 pounds but not more than 14,000 pounds,

16 “(C) \$20,000, if such vehicle has a gross
17 vehicle weight rating of more than 14,000
18 pounds but not more than 26,000 pounds, and

19 “(D) \$40,000, if such vehicle has a gross
20 vehicle weight rating of more than 26,000
21 pounds.

22 “(2) INCREASE FOR FUEL EFFICIENCY.—

23 “(A) IN GENERAL.—The amount deter-
24 mined under paragraph (1)(A) with respect to
25 a new qualified fuel cell motor vehicle which is



1 a passenger automobile or light truck shall be
2 increased by—

3 “(i) \$1,000, if such vehicle achieves at
4 least 150 percent but less than 175 per-
5 cent of the 2000 model year city fuel econ-
6 omy,

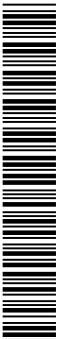
7 “(ii) \$1,500, if such vehicle achieves
8 at least 175 percent but less than 200 per-
9 cent of the 2000 model year city fuel econ-
10 omy,

11 “(iii) \$2,000, if such vehicle achieves
12 at least 200 percent but less than 225 per-
13 cent of the 2000 model year city fuel econ-
14 omy,

15 “(iv) \$2,500, if such vehicle achieves
16 at least 225 percent but less than 250 per-
17 cent of the 2000 model year city fuel econ-
18 omy,

19 “(v) \$3,000, if such vehicle achieves
20 at least 250 percent but less than 275 per-
21 cent of the 2000 model year city fuel econ-
22 omy,

23 “(vi) \$3,500, if such vehicle achieves
24 at least 275 percent but less than 300 per-



1 cent of the 2000 model year city fuel econ-
 2 omy, and

3 “(vii) \$4,000, if such vehicle achieves
 4 at least 300 percent of the 2000 model
 5 year city fuel economy.

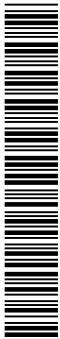
6 “(B) 2000 MODEL YEAR CITY FUEL ECON-
 7 OMY.—For purposes of subparagraph (A), the
 8 2000 model year city fuel economy with respect
 9 to a vehicle shall be determined in accordance
 10 with the following tables:

11 “(i) In the case of a passenger auto-
 12 mobile:

“If vehicle inertia weight	The 2000 model year city fuel
class is:	economy is:
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 or 8,500 lbs	11.1 mpg.

13 “(ii) In the case of a light truck:

“If vehicle inertia weight	The 2000 model year city fuel
class is:	economy is:
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg



“If vehicle inertia weight	The 2000 model year city fuel
class is:	economy is:
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 or 8,500 lbs	12.0 mpg.

1 “(C) VEHICLE INERTIA WEIGHT CLASS.—

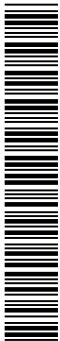
2 For purposes of subparagraph (B), the term
3 ‘vehicle inertia weight class’ has the same
4 meaning as when defined in regulations pre-
5 scribed by the Administrator of the Environ-
6 mental Protection Agency for purposes of the
7 administration of title II of the Clean Air Act
8 (42 U.S.C. 7521 et seq.).

9 “(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-
10 CLE.—For purposes of this subsection, the term
11 ‘new qualified fuel cell motor vehicle’ means a motor
12 vehicle—

13 “(A) which is propelled by power derived
14 from one or more cells which convert chemical
15 energy directly into electricity by combining ox-
16 ygen with hydrogen fuel which is stored on
17 board the vehicle in any form and may or may
18 not require reformation prior to use,

19 “(B) which, in the case of a passenger
20 automobile or light truck—

21 “(i) for 2004 and later model vehicles,
22 has received a certificate of conformity



1 under the Clean Air Act and meets or ex-
2 ceeds the equivalent qualifying California
3 low emission vehicle standard under sec-
4 tion 243(e)(2) of the Clean Air Act for
5 that make and model year, and

6 “(ii) for 2004 and later model vehi-
7 cles, has received a certificate that such ve-
8 hicle meets or exceeds the Bin 5 Tier II
9 emission level established in regulations
10 prescribed by the Administrator of the En-
11 vironmental Protection Agency under sec-
12 tion 202(i) of the Clean Air Act for that
13 make and model year vehicle,

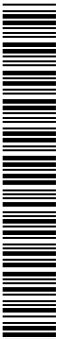
14 “(C) the original use of which commences
15 with the taxpayer,

16 “(D) which is acquired for use or lease by
17 the taxpayer and not for resale, and

18 “(E) which is made by a manufacturer.

19 “(c) ADVANCED LEAN BURN TECHNOLOGY MOTOR
20 VEHICLE CREDIT.—

21 “(1) IN GENERAL.—For purposes of subsection
22 (a), the advanced lean burn technology motor vehicle
23 credit determined under this subsection with respect
24 to a new qualified advanced lean burn technology
25 motor vehicle placed in service by the taxpayer dur-



1 ing the taxable year is the credit amount determined
2 under paragraph (2).

3 “(2) CREDIT AMOUNT.—

4 “(A) INCREASE FOR FUEL EFFICIENCY.—

5 The credit amount determined under this para-
6 graph shall be—

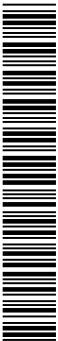
7 “(i) \$500, if such vehicle achieves at
8 least 125 percent but less than 150 per-
9 cent of the 2000 model year city fuel econ-
10 omy,

11 “(ii) \$1,000, if such vehicle achieves
12 at least 150 percent but less than 175 per-
13 cent of the 2000 model year city fuel econ-
14 omy,

15 “(iii) \$1,500, if such vehicle achieves
16 at least 175 percent but less than 200 per-
17 cent of the 2000 model year city fuel econ-
18 omy,

19 “(iv) \$2,000, if such vehicle achieves
20 at least 200 percent but less than 225 per-
21 cent of the 2000 model year city fuel econ-
22 omy,

23 “(v) \$2,500, if such vehicle achieves
24 at least 225 percent but less than 250 per-



1 cent of the 2000 model year city fuel econ-
2 omy, and

3 “(vi) \$3,000, if such vehicle achieves
4 at least 250 percent of the 2000 model
5 year city fuel economy.

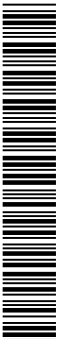
6 For purposes of clause (i), the 2000 model year
7 city fuel economy with respect to a vehicle shall
8 be determined using the tables provided in sub-
9 section (b)(2)(B) with respect to such vehicle.

10 “(B) CONSERVATION CREDIT.—The
11 amount determined under subparagraph (A)
12 with respect to an advanced lean burn tech-
13 nology motor vehicle shall be increased by—

14 “(i) \$250, if such vehicle achieves a
15 lifetime fuel savings of at least 1,500 gal-
16 lons of gasoline, and

17 “(ii) \$500, if such vehicle achieves a
18 lifetime fuel savings of at least 2,500 gal-
19 lons of gasoline.

20 “(C) OPTION TO USE LIKE VEHICLE.—At
21 the option of the vehicle manufacturer, the in-
22 crease for fuel efficiency and conservation credit
23 may be calculated by comparing the new ad-
24 vanced lean-burn technology motor vehicle to a
25 like vehicle.



1 “(3) DEFINITIONS.—For purposes of this
2 subsection—

3 “(A) ADVANCED LEAN BURN TECHNOLOGY
4 MOTOR VEHICLE.—The term ‘advanced lean
5 burn technology motor vehicle’ means a motor
6 vehicle with an internal combustion engine
7 that—

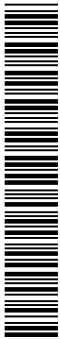
8 “(i) is designed to operate primarily
9 using more air than is necessary for com-
10 plete combustion of the fuel,

11 “(ii) incorporates direct injection,

12 “(iii) achieves at least 125 percent of
13 the 2000 model year city fuel economy,
14 and

15 “(iv) for 2004 and later model vehi-
16 cles, has received a certificate that such ve-
17 hicle meets or exceeds the Bin 8 Tier II
18 emission level established in regulations
19 prescribed by the Administrator of the En-
20 vironmental Protection Agency under sec-
21 tion 202(i) of the Clean Air Act for that
22 make and model year vehicle.

23 “(B) LIKE VEHICLE.—The term ‘like vehi-
24 cle’ for an advanced lean burn technology motor
25 vehicle derived from a conventional production



1 vehicle produced in the same model year means
2 a model that is equivalent in the following
3 areas:

4 “(i) Body style (2-door or 4-door).

5 “(ii) Transmission (automatic or man-
6 ual).

7 “(iii) Acceleration performance (\pm
8 0.05 seconds).

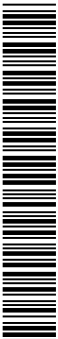
9 “(iv) Drivetrain (2-wheel drive or 4-
10 wheel drive).

11 “(v) Certification by the Adminis-
12 trator of the Environmental Protection
13 Agency.

14 “(C) LIFETIME FUEL SAVINGS.—The term
15 ‘lifetime fuel savings’ shall be calculated by di-
16 viding 120,000 by the difference between the
17 2000 model year city fuel economy for the vehi-
18 cle inertia weight class and the city fuel econ-
19 omy for the new qualified hybrid motor vehicle.

20 “(d) LIMITATION BASED ON AMOUNT OF TAX.—The
21 credit allowed under subsection (a) for the taxable year
22 shall not exceed the excess of—

23 “(1) the sum of the regular tax liability (as de-
24 fined in section 26(b)) plus the tax imposed by sec-
25 tion 55, over



1 “(2) the sum of the credits allowable under sub-
2 part A and sections 27, 29, and 30A for the taxable
3 year.

4 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—
5 For purposes of this section—

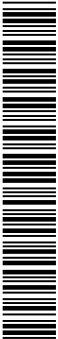
6 “(1) CONSUMABLE FUEL.—The term
7 ‘consumable fuel’ means any solid, liquid, or gaseous
8 matter which releases energy when consumed by an
9 auxiliary power unit.

10 “(2) MOTOR VEHICLE.—The term ‘motor vehi-
11 cle’ has the meaning given such term by section
12 30(c)(2).

13 “(3) 2000 MODEL YEAR CITY FUEL ECON-
14 OMY.—The 2000 model year city fuel economy with
15 respect to any vehicle shall be measured under rules
16 similar to the rules under section 4064(c).

17 “(4) OTHER TERMS.—The terms ‘automobile’,
18 ‘passenger automobile’, ‘light truck’, and ‘manufac-
19 turer’ have the meanings given such terms in regula-
20 tions prescribed by the Administrator of the Envi-
21 ronmental Protection Agency for purposes of the ad-
22 ministration of title II of the Clean Air Act (42
23 U.S.C. 7521 et seq.).

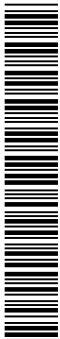
24 “(5) REDUCTION IN BASIS.—For purposes of
25 this subtitle, if a credit is allowed under this section



1 for any expenditure with respect to any property, the
2 increase in the basis of such property which would
3 (but for this paragraph) result from such expendi-
4 ture shall be reduced by the amount of the credit so
5 allowed.

6 “(6) NO DOUBLE BENEFIT.—The amount of
7 any deduction or credit allowable under this chapter
8 (other than the credit allowable under this section),
9 with respect to a vehicle described under subsection
10 (b), shall be reduced by the amount of credit allowed
11 under subsection (a) for such vehicle for the taxable
12 year.

13 “(7) PROPERTY USED BY TAX-EXEMPT ENTI-
14 TIES.—In the case of a credit amount which is al-
15 lowable with respect to a motor vehicle which is ac-
16 quired by an entity exempt from tax under this
17 chapter, the person which sells or leases such vehicle
18 to the entity shall be treated as the taxpayer with
19 respect to the vehicle for purposes of this section
20 and the credit shall be allowed to such person, but
21 only if the person clearly discloses to the entity in
22 any sale or lease document the specific amount of
23 any credit otherwise allowable to the entity under
24 this section.



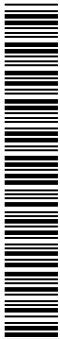
1 “(8) RECAPTURE.—The Secretary shall, by reg-
2 ulations, provide for recapturing the benefit of any
3 credit allowable under subsection (a) with respect to
4 any property which ceases to be property eligible for
5 such credit (including recapture in the case of a
6 lease period of less than the economic life of a vehi-
7 cle).

8 “(9) PROPERTY USED OUTSIDE UNITED
9 STATES, ETC., NOT QUALIFIED.—No credit shall be
10 allowed under subsection (a) with respect to any
11 property referred to in section 50(b) or with respect
12 to the portion of the cost of any property taken into
13 account under section 179.

14 “(10) ELECTION TO NOT TAKE CREDIT.—No
15 credit shall be allowed under subsection (a) for any
16 vehicle if the taxpayer elects to not have this section
17 apply to such vehicle.

18 “(11) CARRYFORWARD ALLOWED.—

19 “(A) IN GENERAL.—If the credit amount
20 allowable under subsection (a) for a taxable
21 year exceeds the amount of the limitation under
22 subsection (d) for such taxable year (referred to
23 as the ‘unused credit year’ in this paragraph),
24 such excess shall be allowed as a credit



1 carryforward for each of the 20 taxable years
2 following the unused credit year.

3 “(B) RULES.—Rules similar to the rules of
4 section 39 shall apply with respect to the credit
5 carryforward under subparagraph (A).

6 “(12) INTERACTION WITH AIR QUALITY AND
7 MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-
8 erwise provided in this section, a motor vehicle shall
9 not be considered eligible for a credit under this sec-
10 tion unless such vehicle is in compliance with—

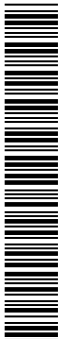
11 “(A) the applicable provisions of the Clean
12 Air Act for the applicable make and model year
13 of the vehicle (or applicable air quality provi-
14 sions of State law in the case of a State which
15 has adopted such provision under a waiver
16 under section 209(b) of the Clean Air Act), and

17 “(B) the motor vehicle safety provisions of
18 sections 30101 through 30169 of title 49,
19 United States Code.

20 “(f) REGULATIONS.—

21 “(1) IN GENERAL.—The Secretary shall pro-
22 mulgate such regulations as necessary to carry out
23 the provisions of this section.

24 “(2) DETERMINATION OF MOTOR VEHICLE ELI-
25 GIBILITY.—The Secretary, in coordination with the



1 Secretary of Transportation and the Administrator
2 of the Environmental Protection Agency, shall pre-
3 scribe such regulations as necessary to determine
4 whether a motor vehicle meets the requirements to
5 be eligible for a credit under this section.

6 “(g) TERMINATION.—This section shall not apply to
7 any property placed in service after—

8 “(1) in the case of a new qualified fuel cell
9 motor vehicle (as described in subsection (b)), De-
10 cember 31, 2012, and

11 “(2) in the case of any other property, Decem-
12 ber 31, 2006.”.

13 (b) CONFORMING AMENDMENTS.—

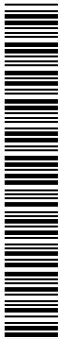
14 (1) Section 1016(a) is amended by striking
15 “and” at the end of paragraph (30), by striking the
16 period at the end of paragraph (31) and inserting “,
17 and”, and by adding at the end the following:

18 “(32) to the extent provided in section
19 30B(e)(5).”.

20 (2) Section 6501(m) is amended by inserting
21 “30B(e)(10),” after “30(d)(4),”.

22 (3) The table of sections for subpart B of part
23 IV of subchapter A of chapter 1 is amended by in-
24 serting after the item relating to section 30A the fol-
25 lowing:

“Sec. 30B. Alternative motor vehicle credit.”.



1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 December 31, 2003, in taxable years ending after such
4 date.

5 **TITLE II—RELIABILITY**

6 **SEC. 42001. NATURAL GAS GATHERING LINES TREATED AS** 7 **7-YEAR PROPERTY.**

8 (a) IN GENERAL.—Subparagraph (C) of section
9 168(e)(3) (relating to classification of certain property) is
10 amended by striking “and” at the end of clause (i), by
11 redesignating clause (ii) as clause (iii), and by inserting
12 after clause (i) the following new clause:

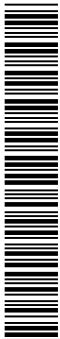
13 “(ii) any natural gas gathering line,
14 and”.

15 (b) NATURAL GAS GATHERING LINE.—Subsection (i)
16 of section 168 is amended by adding after paragraph (15)
17 the following new paragraph:

18 “(16) NATURAL GAS GATHERING LINE.—The
19 term ‘natural gas gathering line’ means—

20 “(A) the pipe, equipment, and appur-
21 tenances determined to be a gathering line by
22 the Federal Energy Regulatory Commission, or

23 “(B) the pipe, equipment, and appur-
24 tenances used to deliver natural gas from the



1 wellhead or a commonpoint to the point at
 2 which such gas first reaches—

3 “(i) a gas processing plant,

4 “(ii) an interconnection with a trans-
 5 mission pipeline certificated by the Federal
 6 Energy Regulatory Commission as an
 7 interstate transmission pipeline,

8 “(iii) an interconnection with an
 9 intrastate transmission pipeline, or

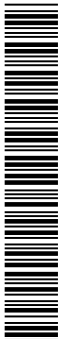
10 “(iv) a direct interconnection with a
 11 local distribution company, a gas storage
 12 facility, or an industrial consumer.”.

13 (c) ALTERNATIVE SYSTEM.—The table contained in
 14 section 168(g)(3)(B) is amended by inserting after the
 15 item relating to subparagraph (C)(i) the following:

“(C)(ii) 10”.

16 (d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
 17 paragraph (B) of section 56(a)(1) is amended by inserting
 18 before the period the following: “, or in section
 19 168(e)(3)(C)(ii)”.

20 (e) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to property placed in service after
 22 the date of the enactment of this Act, in taxable years
 23 ending after such date.



1 **SEC. 42002. NATURAL GAS DISTRIBUTION LINES TREATED**
2 **AS 15-YEAR PROPERTY.**

3 (a) IN GENERAL.—Subparagraph (E) of section
4 168(e)(3) (relating to classification of certain property) is
5 amended by striking “and” at the end of clause (ii), by
6 striking the period at the end of clause (iii) and by insert-
7 ing “, and”, and by adding at the end the following new
8 clause:

9 “(iv) any natural gas distribution
10 line.”.

11 (b) ALTERNATIVE SYSTEM.—The table contained in
12 section 168(g)(3)(B) is amended by inserting after the
13 item relating to subparagraph (E)(iii) the following:

 “(E)(iv) 20”.

14 (c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
15 paragraph (B) of section 56(a)(1) is amended by inserting
16 before the period the following: “, or in section
17 168(e)(3)(E)(iv)”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to property placed in service after
20 the date of the enactment of this Act, in taxable years
21 ending after such date.

22 **SEC. 42003. ELECTRIC TRANSMISSION PROPERTY TREATED**
23 **AS 15-YEAR PROPERTY.**

24 (a) IN GENERAL.—Subparagraph (E) of section
25 168(e)(3) (relating to classification of certain property) is



1 amended by striking “and” at the end of clause (iii), by
2 striking the period at the end of clause (iv) and by insert-
3 ing “, and”, and by adding at the end the following new
4 clause:

5 “(v) any section 1245 property (as de-
6 fined in section 1245(a)(3)) used in the
7 transmission at 69 or more kilovolts of
8 electricity for sale.”.

9 (b) ALTERNATIVE SYSTEM.—The table contained in
10 section 168(g)(3)(B) is amended by inserting after the
11 item relating to subparagraph (E)(iv) the following:

“(E)(v) 20”.

12 (c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
13 paragraph (B) of section 56(a)(1) is amended by inserting
14 before the period the following: “, or in section
15 168(e)(3)(E)(v)”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to property placed in service after
18 the date of the enactment of this Act, in taxable years
19 ending after such date.

20 **SEC. 42004. EXPENSING OF CAPITAL COSTS INCURRED IN**
21 **COMPLYING WITH ENVIRONMENTAL PROTEC-**
22 **TION AGENCY SULFUR REGULATIONS.**

23 (a) IN GENERAL.—Part VI of subchapter B of chap-
24 ter 1 (relating to itemized deductions for individuals and



1 corporations) is amended by inserting after section 179A
2 the following new section:

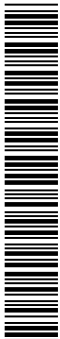
3 **“SEC. 179B. DEDUCTION FOR CAPITAL COSTS INCURRED IN**
4 **COMPLYING WITH ENVIRONMENTAL PROTEC-**
5 **TION AGENCY SULFUR REGULATIONS.**

6 “(a) TREATMENT AS EXPENSES.—A small business
7 refiner (as defined in section 45H(c)(1)) may elect to treat
8 75 percent of qualified capital costs (as defined in section
9 45H(c)(2)) which are paid or incurred by the taxpayer
10 during the taxable year as expenses which are not charge-
11 able to capital account. Any cost so treated shall be al-
12 lowed as a deduction for the taxable year in which paid
13 or incurred.

14 “(b) REDUCED PERCENTAGE.—In the case of a small
15 business refiner with average daily domestic refinery runs
16 for the 1-year period ending on March 31, 2003, in excess
17 of 155,000 barrels, the number of percentage points de-
18 scribed in subsection (a) shall be reduced (not below zero)
19 by the product of such number (before the application of
20 this subsection) and the ratio of such excess to 50,000
21 barrels.

22 “(c) BASIS REDUCTION.—

23 “(1) IN GENERAL.—For purposes of this title,
24 the basis of any property shall be reduced by the



1 portion of the cost of such property taken into ac-
2 count under subsection (a).

3 “(2) ORDINARY INCOME RECAPTURE.—For
4 purposes of section 1245, the amount of the deduc-
5 tion allowable under subsection (a) with respect to
6 any property which is of a character subject to the
7 allowance for depreciation shall be treated as a de-
8 duction allowed for depreciation under section 167.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 263(a)(1) is amended by striking
11 “or” at the end of subparagraph (G), by striking the
12 period at the end of subparagraph (H) and inserting
13 “; or”, and by adding at the end the following new
14 subparagraph:

15 “(I) expenditures for which a deduction is
16 allowed under section 179B.”.

17 (2) Section 312(k)(3)(B) is amended—

18 (A) by striking “section 179 or 179A”
19 each place it appears and inserting “section
20 179, 179A, or 179B”, and

21 (B) in the heading, by striking “179 OR
22 179A” and inserting “179, 179A, OR 179B”.

23 (3) Section 1016(a) is amended by striking
24 “and” at the end of paragraph (31), by striking the
25 period at the end of paragraph (32) and inserting “,



1 and”, and by adding at the end the following new
2 paragraph:

3 “(33) to the extent provided in section
4 179B(c).”

5 (4) Paragraphs (2)(C) and (3)(C) of section
6 1245(a) are each amended by inserting “179B,”
7 after “179A,”.

8 (5) The table of sections for part VI of sub-
9 chapter B of chapter 1 is amended by inserting after
10 the item relating to section 179A the following new
11 item:

“Sec. 179B. Deduction for capital costs incurred in complying
with Environmental Protection Agency sulfur regu-
lations.”.

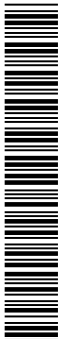
12 (c) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to expenses paid or incurred after
14 March 31, 2003, in taxable years ending after such date.

15 **SEC. 42005. CREDIT FOR PRODUCTION OF LOW SULFUR**
16 **DIESEL FUEL.**

17 (a) IN GENERAL.—Subpart D of part IV of sub-
18 chapter A of chapter 1 (relating to business-related cred-
19 its) is amended by adding at the end the following new
20 section:

21 **“SEC. 45H. CREDIT FOR PRODUCTION OF LOW SULFUR DIE-**
22 **SEL FUEL.**

23 “(a) IN GENERAL.—For purposes of section 38, the
24 amount of the low sulfur diesel fuel production credit de-



1 terminated under this section with respect to any facility
2 of a small business refiner is an amount equal to 5 cents
3 for each gallon of low sulfur diesel fuel produced during
4 the taxable year by such small business refiner at such
5 facility.

6 “(b) MAXIMUM CREDIT.—

7 “(1) IN GENERAL.—The aggregate credit deter-
8 mined under subsection (a) for any taxable year with
9 respect to any facility shall not exceed—

10 “(A) 25 percent of the qualified capital
11 costs incurred by the small business refiner
12 with respect to such facility, reduced by

13 “(B) the aggregate credits determined
14 under this section for all prior taxable years
15 with respect to such facility.

16 “(2) REDUCED PERCENTAGE.—In the case of a
17 small business refiner with average daily domestic
18 refinery runs for the 1-year period ending on March
19 31, 2003, in excess of 155,000 barrels, the number
20 of percentage points described in paragraph (1) shall
21 be reduced (not below zero) by the product of such
22 number (before the application of this paragraph)
23 and the ratio of such excess to 50,000 barrels.

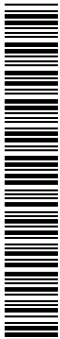
24 “(c) DEFINITIONS.—For purposes of this section—



1 “(1) SMALL BUSINESS REFINER.—The term
2 ‘small business refiner’ means, with respect to any
3 taxable year, a refiner of crude oil with respect to
4 which not more than 1,500 persons are engaged in
5 the refinery operations of the business on any day
6 during such taxable year and whose average daily
7 domestic refinery run for the 1-year period ending
8 on March 31, 2003, did not exceed 205,000 barrels.

9 “(2) QUALIFIED CAPITAL COSTS.—The term
10 ‘qualified capital costs’ means, with respect to any
11 facility, those costs paid or incurred during the ap-
12 plicable period for compliance with the applicable
13 EPA regulations with respect to such facility, includ-
14 ing expenditures for the construction of new process
15 operation units or the dismantling and reconstruc-
16 tion of existing process units to be used in the pro-
17 duction of low sulfur diesel fuel, associated adjacent
18 or offsite equipment (including tankage, catalyst,
19 and power supply), engineering, construction period
20 interest, and sitework.

21 “(3) APPLICABLE EPA REGULATIONS.—The
22 term ‘applicable EPA regulations’ means the High-
23 way Diesel Fuel Sulfur Control Requirements of the
24 Environmental Protection Agency.



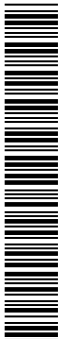
1 “(4) APPLICABLE PERIOD.—The term ‘applica-
2 ble period’ means, with respect to any facility, the
3 period beginning on April 1, 2003, and ending with
4 the date which is 1 year after the date on which the
5 taxpayer must comply with the applicable EPA regu-
6 lations with respect to such facility.

7 “(5) LOW SULFUR DIESEL FUEL.—The term
8 ‘low sulfur diesel fuel’ means diesel fuel with a sul-
9 fur content of 15 parts per million or less.

10 “(d) REDUCTION IN BASIS.—For purposes of this
11 subtitle, if a credit is determined under this section for
12 any expenditure with respect to any property, the increase
13 in basis of such property which would (but for this sub-
14 section) result from such expenditure shall be reduced by
15 the amount of the credit so determined.

16 “(e) CERTIFICATION.—

17 “(1) REQUIRED.—Not later than the date
18 which is 30 months after the first day of the first
19 taxable year in which the low sulfur diesel fuel pro-
20 duction credit is allowed with respect to a facility,
21 the small business refiner must obtain certification
22 from the Secretary, in consultation with the Admin-
23 istrator of the Environmental Protection Agency,
24 that the taxpayer’s qualified capital costs with re-



1 spect to such facility will result in compliance with
2 the applicable EPA regulations.

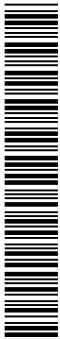
3 “(2) CONTENTS OF APPLICATION.—An applica-
4 tion for certification shall include relevant informa-
5 tion regarding unit capacities and operating charac-
6 teristics sufficient for the Secretary, in consultation
7 with the Administrator of the Environmental Protec-
8 tion Agency, to determine that such qualified capital
9 costs are necessary for compliance with the applica-
10 ble EPA regulations.

11 “(3) REVIEW PERIOD.—Any application shall
12 be reviewed and notice of certification, if applicable,
13 shall be made within 60 days of receipt of such ap-
14 plication.

15 “(4) STATUTE OF LIMITATIONS.—With respect
16 to the credit allowed under this section—

17 “(A) the statutory period for the assess-
18 ment of any deficiency attributable to such
19 credit shall not expire before the end of the 3-
20 year period ending on the date that the review
21 period described in paragraph (3) ends, and

22 “(B) such deficiency may be assessed be-
23 fore the expiration of such 3-year period not-
24 withstanding the provisions of any other law or



1 rule of law which would otherwise prevent such
2 assessment.

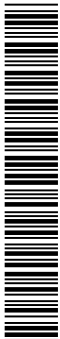
3 “(f) CONTROLLED GROUPS.—For purposes of this
4 section, all persons treated as a single employer under sub-
5 section (b), (c), (m), or (o) of section 414 shall be treated
6 as 1 taxpayer.”.

7 (b) CREDIT MADE PART OF GENERAL BUSINESS
8 CREDIT.—Subsection (b) of section 38 (relating to general
9 business credit) is amended by striking “plus” at the end
10 of paragraph (15), by striking the period at the end of
11 paragraph (16) and inserting “, plus”, and by adding at
12 the end the following new paragraph:

13 “(17) in the case of a small business refiner,
14 the low sulfur diesel fuel production credit deter-
15 mined under section 45H(a).”.

16 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
17 (relating to certain expenses for which credits are allow-
18 able) is amended by adding after subsection (d) the fol-
19 lowing new subsection:

20 “(e) LOW SULFUR DIESEL FUEL PRODUCTION
21 CREDIT.—No deduction shall be allowed for that portion
22 of the expenses otherwise allowable as a deduction for the
23 taxable year which is equal to the amount of the credit
24 determined for the taxable year under section 45H(a).”.



1 (d) BASIS ADJUSTMENT.—Section 1016(a) (relating
2 to adjustments to basis) is amended by striking “and” at
3 the end of paragraph (32), by striking the period at the
4 end of paragraph (33) and inserting “, and”, and by add-
5 ing at the end the following new paragraph:

6 “(34) in the case of a facility with respect to
7 which a credit was allowed under section 45H, to
8 the extent provided in section 45H(d).”.

9 (e) CLERICAL AMENDMENT.—The table of sections
10 for subpart D of part IV of subchapter A of chapter 1
11 is amended by adding at the end the following new item:

“Sec. 45H. Credit for production of low sulfur diesel fuel.”.

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to expenses paid or incurred after
14 March 31, 2003, in taxable years ending after such date.

15 **SEC. 42006. DETERMINATION OF SMALL REFINER EXCEP-**
16 **TION TO OIL DEPLETION DEDUCTION.**

17 (a) IN GENERAL.—Paragraph (4) of section 613A(d)
18 (relating to certain refiners excluded) is amended to read
19 as follows:

20 “(4) CERTAIN REFINERS EXCLUDED.—If the
21 taxpayer or a related person engages in the refining
22 of crude oil, subsection (c) shall not apply to the
23 taxpayer for a taxable year if the average daily refin-
24 ery runs of the taxpayer and the related person for
25 the taxable year exceed 75,000 barrels. For purposes



1 of this paragraph, the average daily refinery runs for
2 any taxable year shall be determined by dividing the
3 aggregate refinery runs for the taxable year by the
4 number of days in the taxable year.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to taxable years beginning after
7 December 31, 2003.

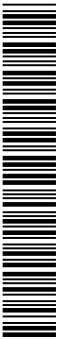
8 **SEC. 42007. SALES OR DISPOSITIONS TO IMPLEMENT FED-**
9 **ERAL ENERGY REGULATORY COMMISSION**
10 **OR STATE ELECTRIC RESTRUCTURING POL-**
11 **ICY.**

12 (a) IN GENERAL.—Section 451 (relating to general
13 rule for taxable year of inclusion) is amended by adding
14 at the end the following new subsection:

15 “(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO
16 IMPLEMENT FEDERAL ENERGY REGULATORY COMMIS-
17 SION OR STATE ELECTRIC RESTRUCTURING POLICY.—

18 “(1) IN GENERAL.—In the case of any quali-
19 fying electric transmission transaction to which the
20 taxpayer elects the application of this section, quali-
21 fied gain from such transaction shall be
22 recognized—

23 “(A) in the taxable year which includes the
24 date of such transaction to the extent the



1 amount realized from such transaction
2 exceeds—

3 “(i) the cost of exempt utility property
4 which is purchased by the taxpayer during
5 the 4-year period beginning on such date,
6 reduced (but not below zero) by

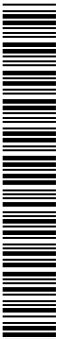
7 “(ii) any portion of such cost pre-
8 viously taken into account under this sub-
9 section, and

10 “(B) ratably over the 8-taxable year period
11 beginning with the taxable year which includes
12 the date of such transaction, in the case of any
13 such gain not recognized under subparagraph
14 (A).

15 “(2) QUALIFIED GAIN.—For purposes of this
16 subsection, the term ‘qualified gain’ means, with re-
17 spect to any qualifying electric transmission trans-
18 action in any taxable year—

19 “(A) any ordinary income derived from
20 such transaction which would be required to be
21 recognized under section 1245 or 1250 for such
22 taxable year (determined without regard to this
23 subsection), and

24 “(B) any income derived from such trans-
25 action in excess of the amount described in sub-



1 paragraph (A) which is required to be included
2 in gross income for such taxable year (deter-
3 mined without regard to this subsection).

4 “(3) QUALIFYING ELECTRIC TRANSMISSION
5 TRANSACTION.—For purposes of this subsection, the
6 term ‘qualifying electric transmission transaction’
7 means any sale or other disposition before January
8 1, 2007, of—

9 “(A) property used in the trade or business
10 of providing electric transmission services, or

11 “(B) any stock or partnership interest in a
12 corporation or partnership, as the case may be,
13 whose principal trade or business consists of
14 providing electric transmission services,

15 but only if such sale or disposition is to an inde-
16 pendent transmission company.

17 “(4) INDEPENDENT TRANSMISSION COM-
18 PANY.—For purposes of this subsection, the term
19 ‘independent transmission company’ means—

20 “(A) an independent transmission provider
21 approved by the Federal Energy Regulatory
22 Commission,

23 “(B) a person—

24 “(i) who the Federal Energy Regu-
25 latory Commission determines in its au-



1 thorization of the transaction under section
2 203 of the Federal Power Act (16 U.S.C.
3 824b) or by declaratory order is not a
4 market participant within the meaning of
5 such Commission's rules applicable to inde-
6 pendent transmission providers, and

7 “(ii) whose transmission facilities to
8 which the election under this subsection
9 applies are under the operational control of
10 a Federal Energy Regulatory Commission-
11 approved independent transmission pro-
12 vider before the close of the period speci-
13 fied in such authorization, but not later
14 than the close of the period applicable
15 under subsection (a)(2)(B) as extended
16 under paragraph (2), or

17 “(C) in the case of facilities subject to the
18 jurisdiction of the Public Utility Commission of
19 Texas—

20 “(i) a person which is approved by
21 that Commission as consistent with Texas
22 State law regarding an independent trans-
23 mission provider, or

24 “(ii) a political subdivision or affiliate
25 thereof whose transmission facilities are



1 under the operational control of a person
2 described in clause (i).

3 “(5) EXEMPT UTILITY PROPERTY.—For pur-
4 poses of this subsection—

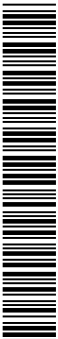
5 “(A) IN GENERAL.—The term ‘exempt
6 utility property’ means property used in the
7 trade or business of—

8 “(i) generating, transmitting, distrib-
9 uting, or selling electricity, or

10 “(ii) producing, transmitting, distrib-
11 uting, or selling natural gas.

12 “(B) NONRECOGNITION OF GAIN BY REA-
13 SON OF ACQUISITION OF STOCK.—Acquisition of
14 control of a corporation shall be taken into ac-
15 count under this subsection with respect to a
16 qualifying electric transmission transaction only
17 if the principal trade or business of such cor-
18 poration is a trade or business referred to in
19 subparagraph (A).

20 “(6) SPECIAL RULE FOR CONSOLIDATED
21 GROUPS.—In the case of a corporation which is a
22 member of an affiliated group filing a consolidated
23 return, any exempt utility property purchased by an-
24 other member of such group shall be treated as pur-



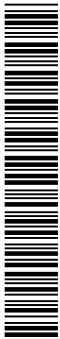
1 chased by such corporation for purposes of applying
2 paragraph (1)(A).

3 “(7) TIME FOR ASSESSMENT OF DEFICI-
4 CIENCIES.—If the taxpayer has made the election
5 under paragraph (1) and any gain is recognized by
6 such taxpayer as provided in paragraph (1)(B),
7 then—

8 “(A) the statutory period for the assess-
9 ment of any deficiency, for any taxable year in
10 which any part of the gain on the transaction
11 is realized, attributable to such gain shall not
12 expire prior to the expiration of 3 years from
13 the date the Secretary is notified by the tax-
14 payer (in such manner as the Secretary may by
15 regulations prescribe) of the purchase of exempt
16 utility property or of an intention not to pur-
17 chase such property, and

18 “(B) such deficiency may be assessed be-
19 fore the expiration of such 3-year period not-
20 withstanding any law or rule of law which
21 would otherwise prevent such assessment.

22 “(8) PURCHASE.—For purposes of this sub-
23 section, the taxpayer shall be considered to have
24 purchased any property if the unadjusted basis of



1 such property is its cost within the meaning of sec-
2 tion 1012.

3 “(9) ELECTION.—An election under paragraph
4 (1) shall be made at such time and in such manner
5 as the Secretary may require and, once made, shall
6 be irrevocable.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to transactions occurring after the
9 date of the enactment of this Act, in taxable years ending
10 after such date.

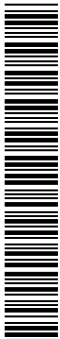
11 **SEC. 42008. MODIFICATIONS TO SPECIAL RULES FOR NU-**
12 **CLEAR DECOMMISSIONING COSTS.**

13 (a) REPEAL OF LIMITATION ON DEPOSITS INTO
14 FUND BASED ON COST OF SERVICE; CONTRIBUTIONS
15 AFTER FUNDING PERIOD.—Subsection (b) of section
16 468A is amended to read as follows:

17 “(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

18 “(1) IN GENERAL.—The amount which a tax-
19 payer may pay into the Fund for any taxable year
20 shall not exceed the ruling amount applicable to
21 such taxable year.

22 “(2) CONTRIBUTIONS AFTER FUNDING PE-
23 RIOD.—Notwithstanding any other provision of this
24 section, a taxpayer may pay into the Fund in any
25 taxable year after the last taxable year to which the

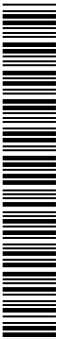


1 ruling amount applies. Payments may not be made
2 under the preceding sentence to the extent such pay-
3 ments would cause the assets of the Fund to exceed
4 the nuclear decommissioning costs allocable to the
5 taxpayer's current or former interest in the nuclear
6 power plant to which the Fund relates. The limita-
7 tion under the preceding sentence shall be deter-
8 mined by taking into account a reasonable rate of
9 inflation for the nuclear decommissioning costs and
10 a reasonable after-tax rate of return on the assets
11 of the Fund until such assets are anticipated to be
12 expended.”.

13 (b) CLARIFICATION OF TREATMENT OF FUND
14 TRANSFERS.—Subsection (e) of section 468A is amended
15 by adding at the end the following new paragraph:

16 “(8) TREATMENT OF FUND TRANSFERS.—If, in
17 connection with the transfer of the taxpayer's inter-
18 est in a nuclear power plant, the taxpayer transfers
19 the Fund with respect to such power plant to the
20 transferee of such interest and the transferee elects
21 to continue the application of this section to such
22 Fund—

23 “(A) the transfer of such Fund shall not
24 cause such Fund to be disqualified from the ap-
25 plication of this section, and



1 “(B) no amount shall be treated as distrib-
2 uted from such Fund, or be includible in gross
3 income, by reason of such transfer.”.

4 (c) TREATMENT OF CERTAIN DECOMMISSIONING
5 COSTS.—

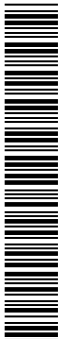
6 (1) IN GENERAL.—Section 468A is amended by
7 redesignating subsections (f) and (g) as subsections
8 (g) and (h), respectively, and by inserting after sub-
9 section (e) the following new subsection:

10 “(f) TRANSFERS INTO QUALIFIED FUNDS.—

11 “(1) IN GENERAL.—Notwithstanding subsection
12 (b), any taxpayer maintaining a Fund to which this
13 section applies with respect to a nuclear power plant
14 may transfer into such Fund up to an amount equal
15 to the excess of the total nuclear decommissioning
16 costs with respect to such nuclear power plant over
17 the portion of such costs taken into account in de-
18 termining the ruling amount in effect immediately
19 before the transfer.

20 “(2) DEDUCTION FOR AMOUNTS TRANS-
21 FERRED.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (C), the deduction allowed by
24 subsection (a) for any transfer permitted by
25 this subsection shall be allowed ratably over the



1 remaining estimated useful life (within the
2 meaning of subsection (d)(2)(A)) of the nuclear
3 power plant beginning with the taxable year
4 during which the transfer is made.

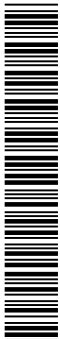
5 “(B) DENIAL OF DEDUCTION FOR PRE-
6 VIOUSLY DEDUCTED AMOUNTS.—No deduction
7 shall be allowed for any transfer under this sub-
8 section of an amount for which a deduction was
9 previously allowed or a corresponding amount
10 was not included in gross income. For purposes
11 of the preceding sentence, a ratable portion of
12 each transfer shall be treated as being from
13 previously deducted or excluded amounts to the
14 extent thereof.

15 “(C) TRANSFERS OF QUALIFIED FUNDS.—
16 If—

17 “(i) any transfer permitted by this
18 subsection is made to any Fund to which
19 this section applies, and

20 “(ii) such Fund is transferred there-
21 after,

22 any deduction under this subsection for taxable
23 years ending after the date that such Fund is
24 transferred shall be allowed to the transferor
25 for the taxable year which includes such date.



1 “(D) SPECIAL RULES.—

2 “(i) GAIN OR LOSS NOT RECOG-
3 NIZED.—No gain or loss shall be recog-
4 nized on any transfer permitted by this
5 subsection.

6 “(ii) TRANSFERS OF APPRECIATED
7 PROPERTY.—If appreciated property is
8 transferred in a transfer permitted by this
9 subsection, the amount of the deduction
10 shall be the adjusted basis of such prop-
11 erty.

12 “(3) NEW RULING AMOUNT REQUIRED.—Para-
13 graph (1) shall not apply to any transfer unless the
14 taxpayer requests from the Secretary a new schedule
15 of ruling amounts in connection with such transfer.

16 “(4) NO BASIS IN QUALIFIED FUNDS.—Not-
17 withstanding any other provision of law, the tax-
18 payer’s basis in any Fund to which this section ap-
19 plies shall not be increased by reason of any transfer
20 permitted by this subsection.”.

21 (2) NEW RULING AMOUNT TO TAKE INTO AC-
22 COUNT TOTAL COSTS.—Subparagraph (A) of section
23 468A(d)(2) is amended to read as follows:

24 “(A) fund the total nuclear decommis-
25 sioning costs with respect to such power plant



1 over the estimated useful life of such power
2 plant, and”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2003.

6 **SEC. 42009. TREATMENT OF CERTAIN INCOME OF CO-**
7 **OPERATIVES.**

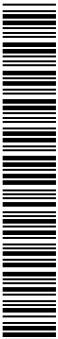
8 (a) INCOME FROM OPEN ACCESS AND NUCLEAR DE-
9 COMMISSIONING TRANSACTIONS.—

10 (1) IN GENERAL.—Subparagraph (C) of section
11 501(c)(12) is amended by striking “or” at the end
12 of clause (i), by striking clause (ii), and by adding
13 at the end the following new clauses:

14 “(ii) from any provision or sale of
15 transmission service or ancillary services if
16 such services are provided on a non-
17 discriminatory open access basis under an
18 independent transmission provider agree-
19 ment approved by FERC (other than in-
20 come received or accrued directly or indi-
21 rectly from a member),

22 “(iii) from any nuclear decommis-
23 sioning transaction, or

24 “(iv) from any asset exchange or con-
25 version transaction.”.



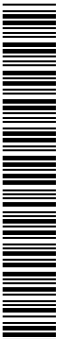
1 (2) DEFINITIONS AND SPECIAL RULES.—Para-
2 graph (12) of section 501(c) is amended by adding
3 at the end the following new subparagraphs:

4 “(E) For purposes of subparagraph (C)(ii),
5 the term ‘FERC’ means the Federal Energy
6 Regulatory Commission and references to such
7 term shall be treated as including the Public
8 Utility Commission of Texas with respect to
9 any ERCOT utility (as defined in section
10 212(k)(2)(B) of the Federal Power Act (16
11 U.S.C. 824k(k)(2)(B))).

12 “(F) For purposes of subparagraph
13 (C)(iii), the term ‘nuclear decommissioning
14 transaction’ means—

15 “(i) any transfer into a trust, fund, or
16 instrument established to pay any nuclear
17 decommissioning costs if the transfer is in
18 connection with the transfer of the mutual
19 or cooperative electric company’s interest
20 in a nuclear power plant or nuclear power
21 plant unit,

22 “(ii) any distribution from any trust,
23 fund, or instrument established to pay any
24 nuclear decommissioning costs, or



1 “(iii) any earnings from any trust,
2 fund, or instrument established to pay any
3 nuclear decommissioning costs.

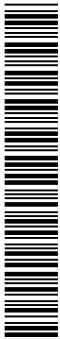
4 “(G) For purposes of subparagraph
5 (C)(iv), the term ‘asset exchange or conversion
6 transaction’ means any voluntary exchange or
7 involuntary conversion of any property related
8 to generating, transmitting, distributing, or sell-
9 ing electric energy by a mutual or cooperative
10 electric company, the gain from which qualifies
11 for deferred recognition under section 1031 or
12 1033, but only if the replacement property ac-
13 quired by such company pursuant to such sec-
14 tion constitutes property which is used, or to be
15 used, for—

16 “(i) generating, transmitting, distrib-
17 uting, or selling electric energy, or

18 “(ii) producing, transmitting, distrib-
19 uting, or selling natural gas.”.

20 (b) TREATMENT OF INCOME FROM LOAD LOSS
21 TRANSACTIONS, ETC.—Paragraph (12) of section 501(c),
22 as amended by subsection (a)(2), is amended by adding
23 after subparagraph (G) the following new subparagraph:

24 “(H)(i) In the case of a mutual or coopera-
25 tive electric company described in this para-



1 graph or an organization described in section
2 1381(a)(2)(C), income received or accrued from
3 a load loss transaction shall be treated as an
4 amount collected from members for the sole
5 purpose of meeting losses and expenses.

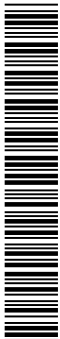
6 “(ii) For purposes of clause (i), the term
7 ‘load loss transaction’ means any wholesale or
8 retail sale of electric energy (other than to
9 members) to the extent that the aggregate sales
10 during the recovery period do not exceed the
11 load loss mitigation sales limit for such period.

12 “(iii) For purposes of clause (ii), the load
13 loss mitigation sales limit for the recovery pe-
14 riod is the sum of the annual load losses for
15 each year of such period.

16 “(iv) For purposes of clause (iii), a mutual
17 or cooperative electric company’s annual load
18 loss for each year of the recovery period is the
19 amount (if any) by which—

20 “(I) the megawatt hours of electric
21 energy sold during such year to members
22 of such electric company are less than

23 “(II) the megawatt hours of electric
24 energy sold during the base year to such
25 members.



1 “(v) For purposes of clause (iv)(II), the
2 term ‘base year’ means—

3 “(I) the calendar year preceding the
4 start-up year, or

5 “(II) at the election of the electric
6 company, the second or third calendar
7 years preceding the start-up year.

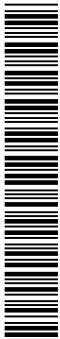
8 “(vi) For purposes of this subparagraph,
9 the recovery period is the 7-year period begin-
10 ning with the start-up year.

11 “(vii) For purposes of this subparagraph,
12 the start-up year is the calendar year which in-
13 cludes the date of the enactment of this sub-
14 paragraph or, if later, at the election of the mu-
15 tual or cooperative electric company—

16 “(I) the first year that such electric
17 company offers nondiscriminatory open ac-
18 cess, or

19 “(II) the first year in which at least
20 10 percent of such electric company’s sales
21 are not to members of such electric com-
22 pany.

23 “(viii) A company shall not fail to be treat-
24 ed as a mutual or cooperative company for pur-
25 poses of this paragraph or as a corporation op-



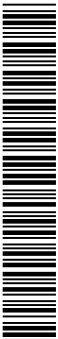
1 erating on a cooperative basis for purposes of
2 section 1381(a)(2)(C) by reason of the treat-
3 ment under clause (i).

4 “(ix) For purposes of subparagraph (A), in
5 the case of a mutual or cooperative electric
6 company, income received, or accrued, indirectly
7 from a member shall be treated as an amount
8 collected from members for the sole purpose of
9 meeting losses and expenses.”.

10 (c) EXCEPTION FROM UNRELATED BUSINESS TAX-
11 ABLE INCOME.—Subsection (b) of section 512 (relating to
12 modifications) is amended by adding at the end the fol-
13 lowing new paragraph:

14 “(18) TREATMENT OF MUTUAL OR COOPERA-
15 TIVE ELECTRIC COMPANIES.—In the case of a mu-
16 tual or cooperative electric company described in sec-
17 tion 501(c)(12), there shall be excluded income
18 which is treated as member income under subpara-
19 graph (H) thereof.”.

20 (d) CROSS REFERENCE.—Section 1381 is amended
21 by adding at the end the following new subsection:



1 “(c) CROSS REFERENCE.—

“For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).”.

2 (e) EFFECTIVE DATE.—The amendments made by
3 this section shall apply to taxable years beginning after
4 the date of the enactment of this Act.

5 **SEC. 42010. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**
6 **MENTS FOR NATURAL GAS.**

7 (a) IN GENERAL.—Subsection (b) of section 148 (re-
8 lating to higher yielding investments) is amended by add-
9 ing at the end the following new paragraph:

10 “(4) SAFE HARBOR FOR PREPAID NATURAL
11 GAS.—

12 “(A) IN GENERAL.—The term ‘investment-
13 type property’ does not include a prepayment
14 under a qualified natural gas supply contract.

15 “(B) QUALIFIED NATURAL GAS SUPPLY
16 CONTRACT.—For purposes of this paragraph,
17 the term ‘qualified natural gas supply contract’
18 means any contract to acquire natural gas for
19 resale by a utility owned by a governmental
20 unit if the amount of gas permitted to be ac-
21 quired under the contract by the utility during
22 any year does not exceed the sum of—

23 “(i) the annual average amount dur-
24 ing the testing period of natural gas pur-



1 chased (other than for resale) by cus-
2 tomers of such utility who are located
3 within the service area of such utility, and

4 “(ii) the amount of natural gas to be
5 used to transport the prepaid natural gas
6 to the utility during such year.

7 “(C) NATURAL GAS USED TO GENERATE
8 ELECTRICITY.—Natural gas used to generate
9 electricity shall be taken into account in deter-
10 mining the average under subparagraph
11 (B)(i)—

12 “(i) only if the electricity is generated
13 by a utility owned by a governmental unit,
14 and

15 “(ii) only to the extent that the elec-
16 tricity is sold (other than for resale) to
17 customers of such utility who are located
18 within the service area of such utility.

19 “(D) ADJUSTMENTS FOR CHANGES IN
20 CUSTOMER BASE.—

21 “(i) NEW BUSINESS CUSTOMERS.—
22 If—

23 “(I) after the close of the testing
24 period and before the date of issuance
25 of the issue, the utility owned by a

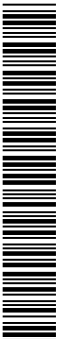


1 governmental unit enters into a con-
2 tract to supply natural gas (other
3 than for resale) for a business use at
4 a property within the service area of
5 such utility, and

6 “(II) the utility did not supply
7 natural gas to such property during
8 the testing period or the ratable
9 amount of natural gas to be supplied
10 under the contract is significantly
11 greater than the ratable amount of
12 gas supplied to such property during
13 the testing period,

14 then a contract shall not fail to be treated
15 as a qualified natural gas supply contract
16 by reason of supplying the additional nat-
17 ural gas under the contract referred to in
18 subclause (I).

19 “(ii) LOST CUSTOMERS.—The average
20 under subparagraph (B)(i) shall not exceed
21 the annual amount of natural gas reason-
22 ably expected to be purchased (other than
23 for resale) by persons who are located
24 within the service area of such utility and



1 who, as of the date of issuance of the
2 issue, are customers of such utility.

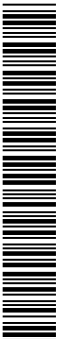
3 “(E) RULING REQUESTS.—The Secretary
4 may increase the average under subparagraph
5 (B)(i) for any period if the utility owned by the
6 governmental unit establishes to the satisfaction
7 of the Secretary that, based on objective evi-
8 dence of growth in natural gas consumption or
9 population, such average would otherwise be in-
10 sufficient for such period.

11 “(F) ADJUSTMENT FOR NATURAL GAS
12 OTHERWISE ON HAND.—

13 “(i) IN GENERAL.—The amount oth-
14 erwise permitted to be acquired under the
15 contract for any period shall be reduced
16 by—

17 “(I) the applicable share of nat-
18 ural gas held by the utility on the
19 date of issuance of the issue, and

20 “(II) the natural gas (not taken
21 into account under subclause (I))
22 which the utility has a right to ac-
23 quire during such period (determined
24 as of the date of issuance of the
25 issue).



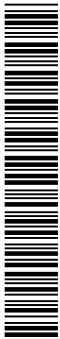
1 “(ii) APPLICABLE SHARE.—For pur-
2 poses of the clause (i), the term ‘applicable
3 share’ means, with respect to any period,
4 the natural gas allocable to such period if
5 the gas were allocated ratably over the pe-
6 riod to which the prepayment relates.

7 “(G) INTENTIONAL ACTS.—Subparagraph
8 (A) shall cease to apply to any issue if the util-
9 ity owned by the governmental unit engages in
10 any intentional act to render the volume of nat-
11 ural gas acquired by such prepayment to be in
12 excess of the sum of—

13 “(i) the amount of natural gas needed
14 (other than for resale) by customers of
15 such utility who are located within the
16 service area of such utility, and

17 “(ii) the amount of natural gas used
18 to transport such natural gas to the utility.

19 “(H) TESTING PERIOD.—For purposes of
20 this paragraph, the term ‘testing period’ means,
21 with respect to an issue, the most recent 5 cal-
22 endar years ending before the date of issuance
23 of the issue.



1 “(I) SERVICE AREA.—For purposes of this
2 paragraph, the service area of a utility owned
3 by a governmental unit shall be comprised of—

4 “(i) any area throughout which such
5 utility provided at all times during the
6 testing period—

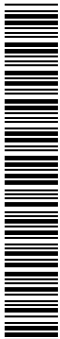
7 “(I) in the case of a natural gas
8 utility, natural gas transmission or
9 distribution services, and

10 “(II) in the case of an electric
11 utility, electricity distribution services,

12 “(ii) any area within a county contig-
13 uous to the area described in clause (i) in
14 which retail customers of such utility are
15 located if such area is not also served by
16 another utility providing natural gas or
17 electricity services, as the case may be, and

18 “(iii) any area recognized as the serv-
19 ice area of such utility under State or Fed-
20 eral law.”.

21 (b) PRIVATE LOAN FINANCING TEST NOT TO APPLY
22 TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of
23 section 141(c) (providing exceptions to the private loan fi-
24 nancing test) is amended by striking “or” at the end of
25 subparagraph (A), by striking the period at the end of



1 subparagraph (B) and inserting “, or”, and by adding at
2 the end the following new subparagraph:

3 “(C) is a qualified natural gas supply con-
4 tract (as defined in section 148(b)(4)).”.

5 (c) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to obligations issued after the date
7 of the enactment of this Act.

8 **SEC. 42011. PREPAYMENT OF PREMIUM LIABILITY FOR**
9 **COAL INDUSTRY HEALTH BENEFITS.**

10 (a) IN GENERAL.—Section 9704 (relating to liability
11 of assigned operators) is amended by adding at the end
12 the following new subsection:

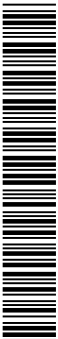
13 “(j) PREPAYMENT OF PREMIUM LIABILITY.—

14 “(1) IN GENERAL.—If—

15 “(A) any assigned operator who is a mem-
16 ber of a controlled group of corporations (with-
17 in the meaning of section 52(a)) makes a pay-
18 ment meeting the requirements of paragraph
19 (2) to the Combined Fund, and

20 “(B) the common parent of such group—

21 “(i) is jointly and severally liable for
22 any premium which would (but for this
23 subsection) be required to be paid by such
24 operator, and



1 “(ii) provides security which meets the
2 requirements of paragraph (3),
3 then no person (other than such common parent)
4 shall be liable for any premium for which such oper-
5 ator would otherwise be liable.

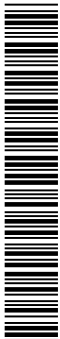
6 “(2) REQUIREMENTS.—A payment meets the
7 requirements of this paragraph if—

8 “(A) the amount of the payment is not less
9 than the present value of the total premium li-
10 ability of the assigned operator for its assignees
11 under this chapter with respect to the Com-
12 bined Fund (as determined by the operator’s
13 enrolled actuary, as defined in section
14 7701(a)(35)), using actuarial methods and as-
15 sumptions each of which is reasonable and
16 which are reasonable in the aggregate, as deter-
17 mined by such enrolled actuary,

18 “(B) a signed actuarial report is filed with
19 the Secretary of Labor by such enrolled actuary
20 containing—

21 “(i) the date of the actuarial valuation
22 applicable to the report, and

23 “(ii) a statement by the enrolled actu-
24 ary signing the report that to the best of
25 the actuary’s knowledge the report is com-



1 plete and accurate and that in the actu-
2 ary's opinion the actuarial assumptions
3 used are in the aggregate reasonably re-
4 lated to the experience of the operator and
5 to reasonable expectations,

6 “(C) a description of the security described
7 in paragraph (3) is filed with the Secretary of
8 Labor by the common parent, and

9 “(D) 30 calendar days have elapsed after
10 the report required by subparagraph (B), and
11 the description required by subparagraph (C),
12 are filed with the Secretary of Labor, and the
13 Secretary of Labor has not notified the as-
14 signed operator in writing that the require-
15 ments of this paragraph have not been satisfied.

16 “(3) SECURITY.—Security meets the require-
17 ments of this paragraph if—

18 “(A) the security (in the form of a bond,
19 letter of credit, or cash escrow) is provided to
20 the trustees of the 1992 UMWA Benefit Plan,
21 solely for the purpose of paying premiums for
22 beneficiaries described in section 9712(b)(2)(B),
23 equal in amount to one year's liability of the as-
24 signed operator under section 9711, determined



1 by using the average cost of such operator's li-
2 ability during its prior 3 calendar years; and

3 “(B) the security will remain in place for
4 5 years.

5 “(4) USE OF PREPAYMENT.—Any payment to
6 which this subsection applies (and earnings thereon)
7 shall be used exclusively to pay premiums which
8 would (but for this subsection) be required to be
9 paid by the assigned operator making such pay-
10 ment.”

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall take effect on the date of the enactment
13 of this Act.

14 **TITLE III—PRODUCTION**

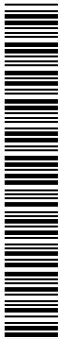
15 **SEC. 43001. OIL AND GAS FROM MARGINAL WELLS.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-
17 chapter A of chapter 1 (relating to business credits) is
18 amended by adding at the end the following:

19 **“SEC. 45I. CREDIT FOR PRODUCING OIL AND GAS FROM** 20 **MARGINAL WELLS.**

21 “(a) GENERAL RULE.—For purposes of section 38,
22 the marginal well production credit for any taxable year
23 is an amount equal to the product of—

24 “(1) the credit amount, and



1 “(2) the qualified credit oil production and the
2 qualified natural gas production which is attrib-
3 utable to the taxpayer.

4 “(b) CREDIT AMOUNT.—For purposes of this
5 section—

6 “(1) IN GENERAL.—The credit amount is—

7 “(A) \$3 per barrel of qualified crude oil
8 production, and

9 “(B) 50 cents per 1,000 cubic feet of
10 qualified natural gas production.

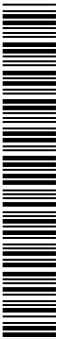
11 “(2) REDUCTION AS OIL AND GAS PRICES IN-
12 CREASE.—

13 “(A) IN GENERAL.—The \$3 and 50 cents
14 amounts under paragraph (1) shall each be re-
15 duced (but not below zero) by an amount which
16 bears the same ratio to such amount (deter-
17 mined without regard to this paragraph) as—

18 “(i) the excess (if any) of the applica-
19 ble reference price over \$15 (\$1.67 for
20 qualified natural gas production), bears to

21 “(ii) \$3 (\$0.33 for qualified natural
22 gas production).

23 The applicable reference price for a taxable
24 year is the reference price of the calendar year



1 preceding the calendar year in which the tax-
2 able year begins.

3 “(B) INFLATION ADJUSTMENT.—In the
4 case of any taxable year beginning in a calendar
5 year after 2003, each of the dollar amounts
6 contained in subparagraph (A) shall be in-
7 creased to an amount equal to such dollar
8 amount multiplied by the inflation adjustment
9 factor for such calendar year (determined under
10 section 43(b)(3)(B) by substituting ‘2002’ for
11 ‘1990’).

12 “(C) REFERENCE PRICE.—For purposes of
13 this paragraph, the term ‘reference price’
14 means, with respect to any calendar year—

15 “(i) in the case of qualified crude oil
16 production, the reference price determined
17 under section 29(d)(2)(C), and

18 “(ii) in the case of qualified natural
19 gas production, the Secretary’s estimate of
20 the annual average wellhead price per
21 1,000 cubic feet for all domestic natural
22 gas.

23 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS
24 PRODUCTION.—For purposes of this section—



1 “(1) IN GENERAL.—The terms ‘qualified crude
2 oil production’ and ‘qualified natural gas production’
3 mean domestic crude oil or natural gas which is pro-
4 duced from a qualified marginal well.

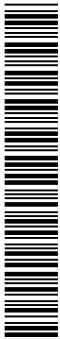
5 “(2) LIMITATION ON AMOUNT OF PRODUCTION
6 WHICH MAY QUALIFY.—

7 “(A) IN GENERAL.—Crude oil or natural
8 gas produced during any taxable year from any
9 well shall not be treated or qualified crude oil
10 production or qualified natural gas production
11 to the extent production from the well during
12 the taxable year exceeds 1,095 barrels or barrel
13 equivalents.

14 “(B) PROPORTIONATE REDUCTIONS.—

15 “(i) SHORT TAXABLE YEARS.—In the
16 case of a short taxable year, the limitations
17 under this paragraph shall be proportion-
18 ately reduced to reflect the ratio which the
19 number of days in such taxable year bears
20 to 365.

21 “(ii) WELLS NOT IN PRODUCTION EN-
22 TIRE YEAR.—In the case of a well which is
23 not capable of production during each day
24 of a taxable year, the limitations under
25 this paragraph applicable to the well shall



1 be proportionately reduced to reflect the
2 ratio which the number of days of produc-
3 tion bears to the total number of days in
4 the taxable year.

5 “(3) DEFINITIONS.—

6 “(A) QUALIFIED MARGINAL WELL.—The
7 term ‘qualified marginal well’ means a domestic
8 well—

9 “(i) the production from which during
10 the taxable year is treated as marginal
11 production under section 613A(c)(6), or

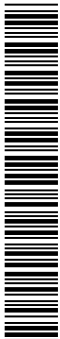
12 “(ii) which, during the taxable year—

13 “(I) has average daily production
14 of not more than 25 barrel equiva-
15 lents, and

16 “(II) produces water at a rate
17 not less than 95 percent of total well
18 effluent.

19 “(B) CRUDE OIL, ETC.—The terms ‘crude
20 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have
21 the meanings given such terms by section
22 613A(e).

23 “(C) BARREL EQUIVALENT.—The term
24 ‘barrel equivalent’ means, with respect to nat-



1 ural gas, a conversion ratio of 6,000 cubic
2 feet of natural gas to 1 barrel of crude oil.

3 “(d) OTHER RULES.—

4 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
5 PAYER.—In the case of a qualified marginal well in
6 which there is more than one owner of operating in-
7 terests in the well and the crude oil or natural gas
8 production exceeds the limitation under subsection
9 (c)(2), qualifying crude oil production or qualifying
10 natural gas production attributable to the taxpayer
11 shall be determined on the basis of the ratio which
12 taxpayer’s revenue interest in the production bears
13 to the aggregate of the revenue interests of all oper-
14 ating interest owners in the production.

15 “(2) OPERATING INTEREST REQUIRED.—Any
16 credit under this section may be claimed only on
17 production which is attributable to the holder of an
18 operating interest.

19 “(3) PRODUCTION FROM NONCONVENTIONAL
20 SOURCES EXCLUDED.—In the case of production
21 from a qualified marginal well which is eligible for
22 the credit allowed under section 29 for the taxable
23 year, no credit shall be allowable under this section
24 unless the taxpayer elects not to claim the credit
25 under section 29 with respect to the well.”.



1 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
2 tion 38(b) is amended by striking “plus” at the end of
3 paragraph (16), by striking the period at the end of para-
4 graph (17) and inserting “, plus”, and by adding at the
5 end the following:

6 “(18) the marginal oil and gas well production
7 credit determined under section 45I(a).”.

8 (c) CARRYBACK.—Subsection (a) of section 39 (relat-
9 ing to carryback and carryforward of unused credits gen-
10 erally) is amended by adding at the end the following:

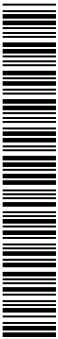
11 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL
12 AND GAS WELL PRODUCTION CREDIT.—In the case
13 of the marginal oil and gas well production credit—

14 “(A) this section shall be applied sepa-
15 rately from the business credit (other than the
16 marginal oil and gas well production credit),

17 “(B) paragraph (1) shall be applied by
18 substituting ‘10 taxable years’ for ‘1 taxable
19 years’ in subparagraph (A) thereof, and

20 “(C) paragraph (2) shall be applied—

21 “(i) by substituting ‘31 taxable years’
22 for ‘21 taxable years’ in subparagraph (A)
23 thereof, and



1 “(ii) by substituting ‘30 taxable years’
2 for ‘20 taxable years’ in subparagraph (A)
3 thereof.”.

4 (d) COORDINATION WITH SECTION 29.—Section
5 29(a) is amended by striking “There” and inserting “At
6 the election of the taxpayer, there”.

7 (e) CLERICAL AMENDMENT.—The table of sections
8 for subpart D of part IV of subchapter A of chapter 1
9 is amended by adding at the end the following:

“Sec. 45L. Credit for producing oil and gas from marginal wells.”.

10 (f) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to production in taxable years be-
12 ginning after December 31, 2003.

13 **SEC. 43002. TEMPORARY SUSPENSION OF LIMITATION**
14 **BASED ON 65 PERCENT OF TAXABLE INCOME**
15 **AND EXTENSION OF SUSPENSION OF TAX-**
16 **ABLE INCOME LIMIT WITH RESPECT TO MAR-**
17 **GINAL PRODUCTION.**

18 (a) LIMITATION BASED ON 65 PERCENT OF TAX-
19 ABLE INCOME.—Subsection (d) of section 613A (relating
20 to limitation on percentage depletion in case of oil and
21 gas wells) is amended by adding at the end the following
22 new paragraph:

23 “(6) TEMPORARY SUSPENSION OF TAXABLE IN-
24 COME LIMIT.—Paragraph (1) shall not apply to tax-
25 able years beginning after December 31, 2003, and



1 before January 1, 2007, including with respect to
2 amounts carried under the second sentence of para-
3 graph (1) to such taxable years.”.

4 (b) EXTENSION OF SUSPENSION OF TAXABLE IN-
5 COME LIMIT WITH RESPECT TO MARGINAL PRODUC-
6 TION.—Subparagraph (H) of section 613A(c)(6) (relating
7 to temporary suspension of taxable income limit with re-
8 spect to marginal production) is amended by striking
9 “2004” and inserting “2007”.

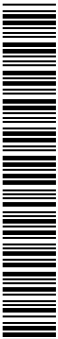
10 (c) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to taxable years beginning after
12 December 31, 2003.

13 **SEC. 43003. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

14 (a) IN GENERAL.—Section 167 (relating to deprecia-
15 tion) is amended by redesignating subsection (h) as sub-
16 section (i) and by inserting after subsection (g) the fol-
17 lowing new subsection:

18 “(h) AMORTIZATION OF DELAY RENTAL PAYMENTS
19 FOR DOMESTIC OIL AND GAS WELLS.—

20 “(1) IN GENERAL.—Any delay rental payment
21 paid or incurred in connection with the development
22 of oil or gas wells within the United States (as de-
23 fined in section 638) shall be allowed as a deduction
24 ratably over the 24-month period beginning on the
25 date that such payment was paid or incurred.



1 “(2) HALF-YEAR CONVENTION.—For purposes
2 of paragraph (1), any payment paid or incurred dur-
3 ing the taxable year shall be treated as paid or in-
4 curred on the mid-point of such taxable year.

5 “(3) EXCLUSIVE METHOD.—Except as provided
6 in this subsection, no depreciation or amortization
7 deduction shall be allowed with respect to such pay-
8 ments.

9 “(4) TREATMENT UPON ABANDONMENT.—If
10 any property to which a delay rental payment relates
11 is retired or abandoned during the 24-month period
12 described in paragraph (1), no deduction shall be al-
13 lowed on account of such retirement or abandon-
14 ment and the amortization deduction under this sub-
15 section shall continue with respect to such payment.

16 “(5) DELAY RENTAL PAYMENTS.—For purposes
17 of this subsection, the term ‘delay rental payment’
18 means an amount paid for the privilege of deferring
19 development of an oil or gas well under an oil or gas
20 lease.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to amounts paid or incurred in tax-
23 able years beginning after December 31, 2003.



1 **SEC. 43004. AMORTIZATION OF GEOLOGICAL AND GEO-**
2 **PHYSICAL EXPENDITURES.**

3 (a) IN GENERAL.—Section 167 (relating to deprecia-
4 tion) is amended by redesignating subsection (i) as sub-
5 section (j) and by inserting after subsection (h) the fol-
6 lowing new subsection:

7 “(i) AMORTIZATION OF GEOLOGICAL AND GEO-
8 PHYSICAL EXPENDITURES.—

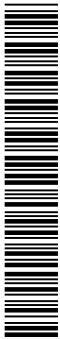
9 “(1) IN GENERAL.—Any geological and geo-
10 physical expenses paid or incurred in connection
11 with the exploration for, or development of, oil or
12 gas within the United States (as defined in section
13 638) shall be allowed as a deduction ratably over the
14 24-month period beginning on the date that such ex-
15 pense was paid or incurred.

16 “(2) SPECIAL RULES.—For purposes of this
17 subsection, rules similar to the rules of paragraphs
18 (2), (3), and (4) of subsection (h) shall apply.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to costs paid or incurred in taxable
21 years beginning after December 31, 2003.

22 **SEC. 43005. EXTENSION AND MODIFICATION OF CREDIT**
23 **FOR PRODUCING FUEL FROM A NONCONVEN-**
24 **TIONAL SOURCE.**

25 (a) IN GENERAL.—Section 29 is amended by adding
26 at the end the following new subsection:



1 “(h) EXTENSION FOR OTHER FACILITIES.—

2 “(1) EXTENSION FOR OIL AND CERTAIN GAS.—

3 In the case of a well for producing qualified fuels de-
4 scribed in subparagraph (A) or (B)(i) of subsection
5 (c)(1)—

6 “(A) APPLICATION OF CREDIT FOR NEW
7 WELLS.—Notwithstanding subsection (f), this
8 section shall apply with respect to such fuels—

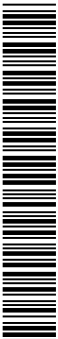
9 “(i) which are produced from a well
10 drilled after the date of the enactment of
11 this subsection and before January 1,
12 2007, and

13 “(ii) which are sold not later than the
14 close of the 4-year period beginning on the
15 date that such well is drilled, or, if earlier,
16 January 1, 2010.

17 “(B) EXTENSION OF CREDIT FOR OLD
18 WELLS.—Subsection (f)(2) shall be applied by
19 substituting ‘2007’ for ‘2003’ with respect to
20 wells described in subsection (f)(1)(A) with re-
21 spect to such fuels.

22 “(2) EXTENSION FOR FACILITIES PRODUCING
23 QUALIFIED FUEL FROM LANDFILL GAS.—

24 “(A) IN GENERAL.—In the case of a facil-
25 ity for producing qualified fuel from landfill gas



1 which was placed in service after June 30,
2 1998, and before January 1, 2007, this section
3 shall apply to fuel produced at such facility dur-
4 ing the 5-year period beginning on the later
5 of—

6 “(i) the date such facility was placed
7 in service, or

8 “(ii) the date of the enactment of this
9 subsection.

10 “(B) REDUCTION OF CREDIT FOR CERTAIN
11 LANDFILL FACILITIES.—In the case of a facility
12 to which paragraph (1) applies and which is lo-
13 cated at a landfill which is required pursuant to
14 section 60.751(b)(2) or section 60.33c of title
15 40, Code of Federal Regulations (as in effect on
16 April 3, 2003) to install and operate a collec-
17 tion and control system which captures gas gen-
18 erated within the landfill, subsection (a)(1)
19 shall be applied to gas so captured by sub-
20 stituting ‘\$2’ for ‘\$3’ for the taxable year dur-
21 ing which such system is required to be in-
22 stalled and operated.

23 “(3) SPECIAL RULES.—In determining the
24 amount of credit allowable under this section solely
25 by reason of this subsection—



1 “(A) DAILY LIMIT.—The amount of quali-
2 fied fuels sold during any taxable year which
3 may be taken into account by reason of this
4 subsection with respect to any project shall not
5 exceed an average barrel-of-oil equivalent of
6 200,000 cubic feet of natural gas per day. Days
7 before the date the project is placed in service
8 shall not be taken into account in determining
9 such average.

10 “(B) EXTENSION PERIOD TO COMMENCE
11 WITH UNADJUSTED CREDIT AMOUNT.—In the
12 case of fuels sold during 2003, the dollar
13 amount applicable under subsection (a)(1) shall
14 be \$3 (without regard to subsection (b)(2)). In
15 the case of fuels sold after 2003, subparagraph
16 (B) of subsection (d)(2) shall be applied by sub-
17 stituting ‘2003’ for ‘1979’.”.

18 (b) TREATMENT AS BUSINESS CREDIT.—

19 (1) CREDIT MOVED TO SUBPART RELATING TO
20 BUSINESS RELATED CREDITS.—The Internal Rev-
21 enue Code of 1986 is amended by redesignating sec-
22 tion 29 as section 45J and by moving section 45J
23 (as so redesignated) from subpart B of part IV of
24 subchapter A of chapter 1 to the end of subpart D
25 of part IV of subchapter A of chapter 1.



1 (2) CREDIT TREATED AS BUSINESS CREDIT.—

2 Section 38(b) is amended by striking “plus” at the
3 end of paragraph (17), by striking the period at the
4 end of paragraph (18) and inserting “, plus”, and
5 by adding at the end the following:

6 “(19) the nonconventional source production
7 credit determined under section 45J(a).”.

8 (3) CONFORMING AMENDMENTS.—

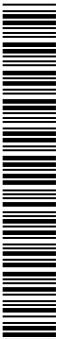
9 (A) Section 30(b)(2)(A), as redesignated
10 by section 110(a), is amended by striking “sec-
11 tions 27 and 29” and inserting “section 27”.

12 (B) Section 30B(d), as added by section
13 41011, is amended by striking “, 29,”.

14 (C) Section 39(d) is amended by adding at
15 the end the following new paragraph:

16 “(13) NO CARRYBACK FOR NONCONVENTIONAL
17 SOURCE PRODUCTION CREDIT.—No portion of the
18 unused business credit for any taxable year which is
19 attributable to the credit under section 45J may be
20 carried back to a taxable year ending before April 1,
21 2003.”.

22 (D) Sections 43(b)(2), 45I(b)(2)(C) (as
23 added by section 43001), and 613A(c)(6)(C)
24 are each amended by striking “section



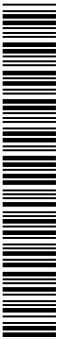
1 29(d)(2)(C)” and inserting “section
2 45J(d)(2)(C)”.

3 (E) Paragraph (9) of section 45(c), as
4 added by section 41002(c), is amended by strik-
5 ing “section 29” and inserting “section 45J”
6 and by striking “SECTION 29” in the heading of
7 such paragraph and inserting “SECTION 45J”.

8 (F) Section 45I(d)(3), as added by section
9 43001, is amended by striking “section 29”
10 each place it appears and inserting “section
11 45J”.

12 (G) Section 45J(a), as amended by section
13 43001(d) and redesignated by paragraph (1), is
14 amended by striking “At the election of the tax-
15 payer, there shall be allowed as a credit against
16 the tax imposed by this chapter for the taxable
17 year” and inserting “For purposes of section
18 38, if the taxpayer elects to have this section
19 apply, the nonconventional source production
20 credit determined under this section for the tax-
21 able year is”.

22 (H) Section 45J(b), as so redesignated, is
23 amended by striking paragraph (6).



1 (I) Section 53(d)(1)(B)(iii) is amended by
2 striking “under section 29” and all that follows
3 through “or not allowed”.

4 (J) Section 55(c)(2) is amended by strik-
5 ing “29(b)(6),”.

6 (K) Subsection (a) of section 772 is
7 amended by inserting “and” at the end of para-
8 graph (9), by striking paragraph (10), and by
9 redesignating paragraph (11) as paragraph
10 (10).

11 (L) Paragraph (5) of section 772(d) is
12 amended by striking “the foreign tax credit,
13 and the credit allowable under section 29” and
14 inserting “and the foreign tax credit”.

15 (M) The table of sections for subpart B of
16 part IV of subchapter A of chapter 1 is amend-
17 ed by striking the item relating to section 29.

18 (N) The table of sections for subpart D of
19 part IV of subchapter A of chapter 1 is amend-
20 ed by inserting after the item relating to section
21 45I the following new item:

“Sec. 45J. Credit for producing fuel from a nonconventional
source.”.

22 (c) EFFECTIVE DATES.—



1 (1) IN GENERAL.—The amendment made by
2 subsection (a) shall apply to fuel sold after March
3 31, 2003, in taxable years ending after such date.

4 (2) TREATMENT AS BUSINESS CREDIT.—The
5 amendments made by subsection (b) shall apply to
6 taxable years ending after March 31, 2003.

7 **SEC. 43006. BUSINESS RELATED ENERGY CREDITS AL-**
8 **LOWED AGAINST REGULAR AND MINIMUM**
9 **TAX.**

10 (a) IN GENERAL.—Subsection (c) of section 38 (re-
11 lating to limitation based on amount of tax) is amended
12 by redesignating paragraph (4) as paragraph (5) and by
13 inserting after paragraph (3) the following new paragraph:

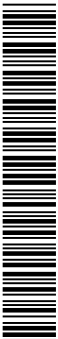
14 “(4) SPECIAL RULES FOR SPECIFIED ENERGY
15 CREDITS.—

16 “(A) IN GENERAL.—In the case of speci-
17 fied energy credits—

18 “(i) this section and section 39 shall
19 be applied separately with respect to such
20 credits, and

21 “(ii) in applying paragraph (1) to
22 such credits—

23 “(I) the tentative minimum tax
24 shall be treated as being zero, and



1 “(II) the limitation under para-
2 graph (1) (as modified by subclause
3 (I)) shall be reduced by the credit al-
4 lowed under subsection (a) for the
5 taxable year (other than the specified
6 energy credits).

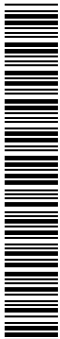
7 “(B) SPECIFIED ENERGY CREDITS.—For
8 purposes of this subsection, the term ‘specified
9 energy credits’ means the credits determined
10 under sections 45G, 45H, and 45I.

11 “(C) SPECIAL RULE FOR QUALIFIED WIND
12 FACILITIES.—For purposes of this subsection,
13 the term ‘specified energy credits’ shall include
14 the credit determined under section 45 to the
15 extent that such credit is attributable to elec-
16 tricity produced—

17 “(i) at a facility using wind to
18 produce electricity which is originally
19 placed in service after the date of the en-
20 actment of this paragraph, and

21 “(ii) during the 4-year period begin-
22 ning on the date that such facility was
23 originally placed in service.”.

24 (b) CONFORMING AMENDMENTS.—Paragraphs
25 (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) are each



1 amended by inserting “or the specified energy credits”
2 after “employee credit”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after the
5 date of the enactment of this Act.

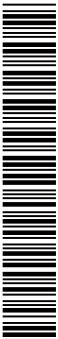
6 **SEC. 43007. TEMPORARY REPEAL OF ALTERNATIVE MIN-**
7 **IMUM TAX PREFERENCE FOR INTANGIBLE**
8 **DRILLING COSTS.**

9 (a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E)
10 is amended by adding at the end the following new sen-
11 tence: “The preceding sentence shall not apply to taxable
12 years beginning after December 31, 2003, and before Jan-
13 uary 1, 2006.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2003.

17 **SEC. 43008. ALLOWANCE OF ENHANCED RECOVERY CREDIT**
18 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

19 (a) IN GENERAL.—Subparagraph (B) of section
20 38(c)(4), as amended by section 43006, is amended by
21 adding at the end the following new sentence: “For taxable
22 years beginning after December 31, 2003, and before Jan-
23 uary 1, 2006, such term includes the credit determined
24 under section 43.”.



1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2003.

4 **TITLE IV—CORPORATE**
5 **EXPATRIATION**

6 **SEC. 44001. TAX TREATMENT OF CORPORATE EXPATRIA-**
7 **TION.**

8 (a) IN GENERAL.—Subchapter C of chapter 80 (re-
9 lating to provisions affecting more than one subtitle) is
10 amended by adding at the end the following new section:

11 **“SEC. 7874. TAX TREATMENT OF CORPORATE EXPATRIA-**
12 **TION.**

13 **“(a) INVERTED CORPORATIONS TREATED AS DOMES-**
14 **TIC CORPORATIONS.—**

15 **“(1) IN GENERAL.—**If a foreign incorporated
16 entity is treated as an inverted domestic corporation,
17 then, notwithstanding section 7701(a)(4), such enti-
18 ty shall be treated for purposes of this title as a do-
19 mestic corporation.

20 **“(2) INVERTED DOMESTIC CORPORATION.—**For
21 purposes of this section, a foreign incorporated enti-
22 ty shall be treated as an inverted domestic corpora-
23 tion if, pursuant to a plan (or a series of related
24 transactions)—



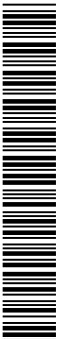
1 “(A) the entity completes after March 4,
2 2003, the direct or indirect acquisition of sub-
3 stantially all of the properties held directly or
4 indirectly by a domestic corporation or substan-
5 tially all of the properties constituting a trade
6 or business of a domestic partnership,

7 “(B) after the acquisition at least 80 per-
8 cent of the stock (by vote or value) of the entity
9 is held—

10 “(i) in the case of an acquisition with
11 respect to a domestic corporation, by
12 former shareholders of the domestic cor-
13 poration by reason of holding stock in the
14 domestic corporation, or

15 “(ii) in the case of an acquisition with
16 respect to a domestic partnership, by
17 former partners of the domestic partner-
18 ship by reason of holding a capital or prof-
19 its interest in the domestic partnership,
20 and

21 “(C) the expanded affiliated group which
22 after the acquisition includes the entity does
23 not have substantial business activities in the
24 foreign country in which or under the law of
25 which the entity is created or organized when



1 compared to the total business activities of such
2 expanded affiliated group.

3 “(3) TERMINATION.—This subsection shall not
4 apply to any acquisition completed after December
5 31, 2004.

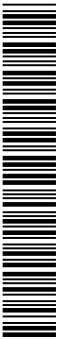
6 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
7 poses of this section—

8 “(1) FOREIGN INCORPORATED ENTITY.—The
9 term ‘foreign incorporated entity’ means any entity
10 which is, or but for subsection (a) would be, treated
11 as a foreign corporation for purposes of this title.

12 “(2) EXPANDED AFFILIATED GROUP.—The
13 term ‘expanded affiliated group’ means an affiliated
14 group as defined in section 1504(a) but without re-
15 gard to paragraphs (2), (3), and (4) of section
16 1504(b), except that section 1504(a) shall be applied
17 by substituting ‘more than 50 percent’ for ‘at least
18 80 percent’ each place it appears.

19 “(3) CERTAIN STOCK DISREGARDED.—There
20 shall not be taken into account in determining own-
21 ership under subsection (a)(3)(B)—

22 “(A) stock held by members of the ex-
23 panded affiliated group which includes the for-
24 eign incorporated entity, or



1 “(B) stock of such foreign incorporated en-
2 tity which is sold in a public offering related to
3 the acquisition described in subsection
4 (a)(3)(A).

5 “(4) PLAN DEEMED IN CERTAIN CASES.—If a
6 foreign incorporated entity acquires directly or indi-
7 rectly substantially all of the properties of a domes-
8 tic corporation or partnership during the 4-year pe-
9 riod beginning on the date which is 2 years before
10 the ownership requirements of subsection (a)(3)(B)
11 are met, such actions shall be treated as pursuant
12 to a plan.

13 “(5) CERTAIN TRANSFERS DISREGARDED.—The
14 transfer of properties or liabilities (including by con-
15 tribution or distribution) shall be disregarded if such
16 transfers are part of a plan a principal purpose of
17 which is to avoid the purposes of this section.

18 “(6) SPECIAL RULE FOR RELATED PARTNER-
19 SHIPS.—For purposes of applying subsection
20 (a)(3)(B) to the acquisition of a domestic partner-
21 ship, except as provided in regulations, all partner-
22 ships which are under common control (within the
23 meaning of section 482) shall be treated as 1 part-
24 nership.



1 “(7) REGULATIONS.—The Secretary shall pre-
2 scribe such regulations as may be appropriate to de-
3 termine whether a corporation is an inverted domes-
4 tic corporation, including regulations—

5 “(A) to treat warrants, options, contracts
6 to acquire stock, convertible debt interests, and
7 other similar interests as stock, and

8 “(B) to treat stock as not stock.

9 “(c) SPECIAL RULE FOR TREATIES.—Nothing in sec-
10 tion 894 or 7852(d) or in any other provision of law shall
11 be construed as permitting an exemption, by reason of any
12 treaty obligation of the United States heretofore or here-
13 after entered into, from the provisions of this section.

14 “(d) REGULATIONS.—The Secretary shall provide
15 such regulations as are necessary to carry out this section,
16 including regulations providing for such adjustments to
17 the application of this section as are necessary to prevent
18 the avoidance of the purposes of this section, including the
19 avoidance of such purposes through—

20 “(1) the use of related persons, pass-through or
21 other noncorporate entities, or other intermediaries,
22 or

23 “(2) transactions designed to have persons
24 cease to be (or not become) members of expanded
25 affiliated groups or related persons.”.



1 (b) CONFORMING AMENDMENT.—The table of sec-
2 tions for subchapter C of chapter 80 is amended by adding
3 at the end the following new item:

“Sec. 7874. Tax treatment of corporate expatriation.”

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years ending after
6 March 4, 2003.

7 **SEC. 44002. EXPRESSING THE SENSE OF THE CONGRESS**

8 **THAT TAX REFORM IS NEEDED TO ADDRESS**

9 **THE ISSUE OF CORPORATE EXPATRIATION.**

10 (a) FINDINGS.—The Congress finds that—

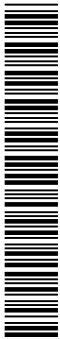
11 (1) the tax laws of the United States are overly
12 complex;

13 (2) the tax laws of the United States are among
14 the most burdensome and uncompetitive in the
15 world;

16 (3) the tax laws of the United States make it
17 difficult for domestically-owned United States com-
18 panies to compete abroad and in the United States;

19 (4) a domestically-owned corporation is dis-
20 advantaged compared to a United States subsidiary
21 of a foreign-owned corporation; and

22 (5) international competitiveness is forcing
23 many United States corporations to make a choice
24 they do not want to make—go out of business, sell
25 the business to a foreign competitor, or become a



1 subsidiary of a foreign corporation (i.e., engage in
2 an inversion transaction).

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that passage of legislation to fix the underlying prob-
5 lems with our tax laws is essential and should occur as
6 soon as possible, so United States corporations will not
7 face the current pressures to engage in inversion trans-
8 actions.

